

**MINUTES OF THE CITY-COUNTY COUNCIL  
AND  
SPECIAL SERVICE DISTRICT COUNCILS  
OF  
INDIANAPOLIS, MARION COUNTY, INDIANA**

**REGULAR MEETINGS  
MONDAY, MARCH 5, 2007**

The City-County Council of Indianapolis, Marion County, Indiana, the Indianapolis Police Special Service District Council, Indianapolis Fire Special Service District Council and Indianapolis Solid Waste Collection Special Service District Council convened in regular concurrent sessions in the Council Chamber of the City-County Building at 7:10 p.m. on Monday, March 5, 2007, with Councillor Gray presiding.

Councillor Speedy led the opening prayer and invited all present to join him in the Pledge of Allegiance to the Flag.

**ROLL CALL**

The President instructed the Clerk to take the roll call and requested members to register their presence on the voting machine. The roll call was as follows:

*28 PRESENT: Abdullah, Bateman, Borst, Boyd, Brown, Cain, Cockrum, Conley, Day, Franklin, Gibson, Gray, Keller, Langsford, Mahern, Mansfield, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Pryor, Randolph, Salisbury, Sanders, Schneider, Speedy, Vaughn*  
*1 ABSENT: McWhirter*

A quorum of twenty-eight members being present, the President called the meeting to order.

**INTRODUCTION OF GUESTS AND VISITORS**

Councillor Borst welcomed Councillor Lance Langsford back from serving with his National Guard unit in the middle east. Councillor Langsford recognized police officer Eric Strange.

**OFFICIAL COMMUNICATIONS**

The President called for the reading of Official Communications. The Clerk read the following:

TO ALL MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE  
COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND  
MARION COUNTY, INDIANA

*Journal of the City-County Council*

Ladies And Gentlemen :

You are hereby notified the REGULAR MEETINGS of the City-County Council and Police, Fire and Solid Waste Collection Special Service District Councils will be held in the City-County Building, in the Council Chambers, on Monday, March 5, 2007, at 7:00 p.m., the purpose of such MEETINGS being to conduct any and all business that may properly come before regular meetings of the Councils.

Respectfully,  
s/Beurt SerVaas  
President, City-County Council

February 15, 2007

TO PRESIDENT GRAY AND MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

Ladies and Gentlemen:

Pursuant to the laws of the State of Indiana, I caused to be published in the *Court & Commercial Record* on Wednesday, January 31, 2007 and in the *Indianapolis Star* on Thursday, February 1, 2007, a copy of a Notice of Public Hearing on Proposal No. 94, 2007, said hearing to be held on Monday, March 5, 2007, at 7:00 p.m. in the City-County Building.

Respectfully,  
s/Jean Ann Milharcic  
Clerk of the City-County Council

February 16, 2007

TO PRESIDENT GRAY AND MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

Ladies and Gentlemen:

I have approved with my signature and delivered this day to the Clerk of the City-County Council, Jean Ann Milharcic, the following ordinances:

FISCAL ORDINANCE NO. 6, 2007 – approves an appropriation of \$330,620 in the 2007 Budget of the Department of Metropolitan Development (Consolidated County, Transportation General and Federal Grants Funds) to fund start up and operational costs associated with the Regional Transportation Authority, which is a joint effort to coordinate regional transportation planning, funded by a federal transportation planning grant, motor vehicle highway funds, and contributions from the local government members of the nine-county Metropolitan Planning Organization

FISCAL ORDINANCE NO. 7, 2007 – approves an appropriation of \$28,238 in the 2007 Budget of the Department of Parks and Recreation (Parks General Fund) to support after school activities at Charity Dye School 27, financed by a grant from the United Way of Central Indiana

FISCAL ORDINANCE NO. 8, 2007 – approves an appropriation of \$48,682 in the 2007 Budget of the Department of Parks and Recreation (Parks General Fund) to fund salary, benefits and supplies for a School Community Development Manager for two schools in the Martindale-Brightwood Neighborhood: Hazel Hart Hendricks School 37 and James Russell Lowell School 51, financed by a grant from the Annie E. Casey Foundation

FISCAL ORDINANCE NO. 9, 2007 – approves an increase of \$344,407 in the 2007 Budget of the Department of Public Safety, Fire Division (Non-Lapsing Federal Grants Fund) for 2007 Urban Search and Rescue (USAR) Task Force operations, financed by grants from the US Department of Homeland Security-Federal Emergency Management Agency

FISCAL ORDINANCE NO. 11, 2007 – appropriates \$91,456 in the 2007 Budget of the Marion County Forensic Services Agency (State and Federal Grants Fund) to reduce the backlog of DNA casework in the Marion County Crime Lab, financed by a grant from the US Department of Justice in cooperation with the Indiana State Police

FISCAL ORDINANCE NO. 12, 2007 – approves an increase of \$19,219 in the 2007 Budget of the Department of Public Safety, Animal Care and Control Division (Consolidated County Fund) for fencing materials and related costs associated with the installation of an outside cattery on the animal shelter property and to provide free sterilization surgeries and vaccinations for cats in Indianapolis, financed by a grant from the American Society for the Prevention of Cruelty to Animals

GENERAL ORDINANCE NO. 2, 2007 - amends the Code to adjust solid waste drop-off times

March 5, 2007

SPECIAL RESOLUTION NO. 14, 2007 – recognizes the Indianapolis Colts on their impressive SuperBowl XLI (41) win

SPECIAL RESOLUTION NO. 15, 2007 – recognizes the George Washington School of Indianapolis on receiving Washington, DC's Coalition for Community Schools Inaugural Community School Award

SPECIAL RESOLUTION NO. 16, 2007 – recognizes Brittany Siegman and Hawthorne Community Center's Family Success Initiative for campaigning to raise money to purchase bullet-proof vests for Indiana's K-9 Police dogs

SPECIAL RESOLUTION NO. 18, 2007 – approves the Installment Tax Payment Plan for certain real estate taxes

Respectfully,  
s/Bart Peterson, Mayor

### **ADOPTION OF THE AGENDA**

The President proposed the adoption of the agenda as distributed. Without objection, the agenda was adopted.

### **APPROVAL OF THE JOURNAL**

The President called for additions or corrections to the February 12, 2007. There being no additions or corrections, the minutes were approved as distributed.

### **PRESENTATION OF PETITIONS, MEMORIALS, SPECIAL RESOLUTIONS, AND COUNCIL RESOLUTIONS**

PROPOSAL NO. 136, 2007. The proposal, sponsored by Councillors Gray, Mansfield, Sanders, Nytes, Mahern, Conley and Brown, supports the United States National Health Insurance Act and State legislation enacting universal publicly paid health insurance. Councillor Sanders read the proposal and presented Dr. Christopher Stack with a copy of the document and a Council pin. Dr. Stack thanked the Council for the support in the fight to provide affordable health insurance for all. He said that this resolution will help address this country-wide issue.

Councillor Keller stated that while he agrees this is a serious problem and needs to be addressed, he cannot endorse one solution without proper review.

Councillor Sanders moved, seconded by Councillor Conley, for adoption. Proposal No. 136, 2007 was adopted on the following roll call vote; viz:

*15 YEAS: Abdullah, Bateman, Boyd, Brown, Conley, Franklin, Gibson, Gray, Mahern, Mansfield, Moriarty Adams, Nytes, Oliver, Pryor, Sanders*

*13 NAYS: Borst, Cain, Cockrum, Day, Keller, Langsford, Pfisterer, Plowman, Randolph, Salisbury, Schneider, Speedy, Vaughn*

*1 ABSENT: McWhirter*

Proposal No. 136, 2007 was retitled COUNCIL RESOLUTION NO. 28, 2007, and reads as follows:

#### **CITY-COUNTY COUNCIL RESOLUTION NO. 28, 2007**

A COUNCIL RESOLUTION supporting the United States National Health Insurance Act and State legislation enacting universal publicly paid health insurance.

WHEREAS, everyone deserves access to affordable, quality healthcare; and

WHEREAS, more than 860,000 Hoosiers and 46 million Americans live with no health insurance, of which approximately one quarter of these individuals are children, even though over 80% of these families have at least one family member who is employed; and

WHEREAS, small and large businesses alike are finding it increasingly difficult to provide health insurance to their employees due to growing premiums, and even those employees that receive some health benefits are often under-insured, facing rising co-payments and deductibles, and lack sufficient coverage for vital care and medications; and

WHEREAS, the leading cause of personal bankruptcy in the nation is due to prolonged illness and medical bills, and Indiana has one of the highest rates of medical bankruptcy in the country; and

WHEREAS, it is estimated by the Institute of Medicine that 18,000 people die every year due to lack of insurance and access to adequate health care; and

WHEREAS, United States Representatives John Conyers and Dennis Kucinich have introduced House Resolution 676 (HR 676), the United States National Health Insurance Act, which would provide necessary health care to all; and

WHEREAS, the Indiana General Assembly has expressed an interest in considering universal publicly paid health care in Indiana; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City-County Council expresses its support for HR 676, the United States National Health Insurance Act and respectfully encourages elected federal officials to endorse and adopt the resolution.

SECTION 2. The Council further supports and endorses State legislation providing universal publicly paid health insurance for all Indiana residents.

SECTION 3. The Council directs the Clerk to send of a copy of this resolution to the President of the United States, members of the Indiana Congressional Delegation, other members of Congress in positions of leadership in the House and Senate with jurisdiction over public health initiatives, the Governor of the State of Indiana, and other legislative officials as deemed appropriate.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 137, 2007. The proposal, sponsored by Councillors Nytes, Bateman and Borst, recognizes oral surgeon and part-time faculty member of Indiana University School of Dentistry, Dr. Lehman D. Adams, Jr. Councillor Nytes moved, seconded by Councillor Cockrum, to postpone Proposal No. 137, 2007 until March 26, 2007. Proposal No. 137, 2007 was postponed by a unanimous voice vote.

Councillor Cain asked for consent to hear Proposal No. 139, 2007 before Proposal No. 138, 2007. Consent was given.

PROPOSAL NO. 139, 2007. The proposal, sponsored by Councillor Cain, recognizes the "Royal Irish" Rugby Society on earning the Indiana Rugby Division I State Championship. Councillor Cain read the proposal and presented copies of the document and Council pins to representatives. Councillor Cain moved, seconded by Councillor Moriarty Adams, for adoption. Proposal No. 139, 2007 was adopted by a unanimous voice vote.

Proposal No. 139, 2007 was retitled SPECIAL RESOLUTION NO. 19, 2007, and reads as follows:

March 5, 2007

CITY-COUNTY SPECIAL RESOLUTION NO. 19, 2007

A SPECIAL RESOLUTION recognizing the Royal Irish Rugby Society on earning the Indiana Rugby Division I State Championship.

WHEREAS, the Royal Irish Rugby Society, also known as Irish Rugby, is a Rugby Club composed of 43 players, grades 9-12, from various Indianapolis schools; and

WHEREAS, the Irish Rugby, lead in 2006 by Captains Will Hoffman and Mike Huntington, included senior leaders: Shea Allen, Ben Bauer, Max Bauer, Chris Birk, Jack Evans, Scott Fangman, Charlie Feeney, Thomas Gatto, Barrington Hodges, Evan Jinks, Andrew Longerbone, Max Lupo, Dan Phillips, Ryan Sapp, Bryan Stoffel, Andrew Sullivan, Gene Witchger, and Mike Peterson (2006 Most Valuable Player); and

WHEREAS, the Irish Rugby team included Head Coach Peter Clarke and Assistant Coaches Denny Conner, Simon Binmead, John Moore, Mike Huntington, and Chris Kaufman; and

WHEREAS, the Irish Rugby has a longstanding tradition of athletic excellence, including numerous state championships and national rankings; and

WHEREAS, with strong support from their parents, fans and school administrations, the Irish Rugby went undefeated in their 2006 regular season matches; and

WHEREAS, the A-team of the Irish Rugby earned the Indiana Rugby Division I State Championship title and the B-team earned the Indiana Rugby Division II State Championship Runner-Up title; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City-County Council honors and recognizes the hard work and accomplishments of these young men, their coaches, and supporters.

SECTION 2. The Council heartily congratulates the team on a great season and wishes them continued success.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 138, 2007. The proposal, sponsored by Councillors Cain, Brown and Conley, recognizes retiring Board Members of the Purdue Cooperative Extension Service of Marion County. Councillor Cain read the proposal and stated that it will be sent to representatives later. She moved, seconded by Councillor Conley, for adoption. Proposal No. 138, 2007 was adopted by a unanimous voice vote.

Proposal No. 138, 2007 was retitled COUNCIL RESOLUTION NO. 29 2007, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 29, 2007

A COUNCIL RESOLUTION recognizing retiring Board Members of the Purdue Cooperative Extension Service of Marion County.

WHEREAS, community volunteers Sue A. Beesley, Jean S. Bradford and Hector Perez completed six years of service on the Purdue Cooperative Extension Service board effective December 31, 2006; and

WHEREAS, Sue A. Beesley, a practicing Indianapolis attorney, has been very active in numerous civic and community activities, as well as professional associations. She has served as chair of the Governmental Practice Section, president of the Indiana Municipal Lawyers Association and the national Association of County Civil Attorneys, as well as serving on the board of Marion County 4-H Clubs, Inc.

and the Juvenile Research Foundation, Indiana Chapter. Ms. Beesley recently completed her second three-year term on the Purdue Extension board ; and

WHEREAS, Jean S. Bradford, a retired buyer from L.S. Ayres, is a lifelong resident of Indianapolis. She has served her community as a volunteer for more than 40 years with organizations such as Young Audiences of Indianapolis, the Indianapolis Museum of Art, Women's Council of the Indianapolis Chamber of Commerce, Meals on Wheels, Junior League of Indianapolis, Meridian Street United Methodist Church, and Soroptimist International. Ms. Bradford, who also completed her second term on the Extension board, continues to be an active volunteer with the Purdue Extension Master Gardener program; and

WHEREAS, Hector Perez, a retired Army Colonel with more than 30 years of active federal service, was born in Myaguez, Puerto Rico. Mr. Perez taught financial management for Vincennes University at Fort Benjamin Harrison and served as their associate dean after retiring from active duty. He has remained active in numerous civic organizations, such as the Kiwanis Club of Castleton, Sociedad Amigos de Columbia (Friends of Columbia Society), Association of the United States Army, and the Purdue Council on Agriculture, Research and Teaching. Hector also completed six years of service on the Extension board in 2006; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City-County Council recognizes retiring Board Members of the Purdue Cooperative Extension Service of Marion County; specifically, Sue A. Beesley, Jean S. Bradford and Hector Perez.

SECTION 2. The Council extends its gratitude and appreciation to Ms. Beesley, Ms. Bradford and Mr. Perez for their dedicated service and wishes them much success in future endeavors.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 140, 2007. The proposal, sponsored by Councillors Sanders, Borst and Cockrum, recognizes W. Richard (Dick) Wayman. Councillor Sanders read the proposal and moved, seconded by Councillor Borst, for adoption. Proposal No. 140 was adopted by a unanimous voice vote.

Proposal No. 140, 2007 was retitled SPECIAL RESOLUTION NO. 20, 2007, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 20, 2007

A SPECIAL RESOLUTION recognizing W. Richard (Dick) Wayman.

WHEREAS, the Indianapolis-Marion County Building Authority is a municipal corporation which provides property management services to the agencies of the City of Indianapolis and Marion County; and

WHEREAS, W. Richard (Dick) Wayman served on the Indianapolis-Marion County Building Authority Board of Trustees for 24 years; and

WHEREAS, as a Trustee, Mr. Wayman's responsibilities included appointing members to the Building Authority's Board of Directors; and

WHEREAS, Mr. Wayman had an outstanding attendance record and rarely missed Building Authority board meetings during the length of his tenure; and

WHEREAS, over the years, Mr. Wayman's engineering expertise contributed greatly to the successful operations of the many properties managed by the Indianapolis-Marion County Building Authority, thereby benefiting the City of Indianapolis and the taxpayers of Marion County; now, therefore:

March 5, 2007

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City-County Council proudly recognizes W. Richard Wayman for his outstanding service and exceptional contributions to the Indianapolis Marion County Building Authority Board of Trustees.

SECTION 2. The Council appreciates Mr. Wayman's commitment and incomparable dedication to the full-service functioning of all the buildings managed by the Building Authority.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 38, 2007. The proposal, sponsored by Councillors Pfisterer and Cain, recognizes Lieutenant Marshall Depew on his nomination for the Michael K. Connor Public Service Award. Councillor Pfisterer read the proposal and presented Lt. Depew with a copy of the document and a Council pin. Lt. Depew thanked the Council for the recognition. Councillor Pfisterer moved, seconded by Councillor Cain, for adoption. Proposal No. 38, 2007 was adopted by a unanimous voice vote.

Proposal No. 38, 2007 was retitled SPECIAL RESOLUTION NO. 21, 2007, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 21, 2007

A SPECIAL RESOLUTION recognizing Lieutenant Marshall Depew on his nomination for the Michael K. Connor Public Service Award.

WHEREAS, the Michael K. Connor Public Service Award is an honorary award established by the Community Capacity Development Office (CCDO) to pay tribute to the memory and achievements of Michael K. Connor, deceased, for his outstanding efforts in promoting law enforcement cooperation and coordination in the Operation Weed and Seed Program; and

WHEREAS, the award honors law enforcement officers who have provided exemplary leadership and outstanding service on behalf of Weed and Seed sited in their jurisdictions, and for outstanding professional achievements and contributions through public and community service; and

WHEREAS, Lt. Depew has been nominated to receive one of the awards for his exceptional service above and beyond the call of duty in Weed and Seed sites. Up to three awards were presented for the first time at CCDO's Law Enforcement Conference in Phoenix, AZ, August 14-17, 2006; and

WHEREAS, in 1994, ten years after joining the Indianapolis Police Department (IPD), Lt. Depew was assigned supervisor of a new unit called the Neighborhood Resource Officer Unit (NRO), in which Community Oriented Policing Services positions and the Weed and Seed initiative was used as a model to eventually change the entire philosophy of IPD to embrace community policing; and

WHEREAS, Lt. Depew is an Indiana Certified Instructor for Police Training and teaches "community policing" through Weed and Seed to every recruit class for the IPD Training Academy; and

WHEREAS, Lt. Depew was noted as always "thinking outside the box" as he and his team focused on low level crimes and building a relationship of trust with the residents and provided a feeling of community safety. One of Lt. Depew's goals was to make sure residents are comfortable with, and have access to, officers in his unit, which resulted in the West District being the first within IPD to set up a "crime line"; and

WHEREAS, Lt. Depew and his officers lead the way for volunteerism on the west side by organizing the Weed and Seed Bicycle Rodeos, Haughville Basketball Challenge, Books & Badges, IPD Clothe-A-Child, and the only Community Appreciation Day; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City-County Council proudly recognizes Lt. Marshall Depew on his many accomplishments with “community policing” and his endeavors to improve his community and rid the neighborhood of crime and fear.

SECTION 2. The Council heartily congratulates Lt. Depew on this prestigious nomination.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 36, 2007. Councillor Boyd reported that the Rules and Public Policy Committee heard Proposal No. 36, 2007 on February 26, 2007. The proposal, sponsored by Councillors Bateman, Mansfield, Keller, Nytes, Moriarty Adams, Sanders, Conley and Gray, supports the passage of Senate Bill No. 9 currently before the Indiana State Legislature for consideration in the 2007 term. By a 5-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Boyd moved, seconded by Councillor Moriarty Adams, for adoption. Proposal No. 36, 2007 was adopted by a voice vote.

Proposal No. 36, 2007 was retitled COUNCIL RESOLUTION NO. 30, 2007, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 30, 2007

A COUNCIL RESOLUTION supporting the passage of Senate Bill No. 9 currently before the Indiana State Legislature for consideration in the 2007 term.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The City County Council of Indianapolis-Marion County being duly advised now finds that it is in the best interest of the residents of the Consolidated City that it issued the following:

City-County Council Resolution in favor of Senate Bill No. 9  
currently before the Indiana State Legislature for the 2007 term

WHEREAS and although fireworks are popular, fireworks are explosives that burn at high temperatures and present dangers to life, health and property unless they are carefully handled and stored; and

WHEREAS, the State Senate will be considering SB-9, a new legislative initiative that would allow the Consolidated City to adopt an ordinance for the use and hours of use of fireworks within the bounds of the Consolidated City; and

WHEREAS, this legislation would allow us to improve Indianapolis’s quality of life and will go much farther than current laws in addressing the number of unintended injuries to persons and property as well as unwanted, excessive noise in neighborhoods; and

WHEREAS, the legislation is good for the future health and welfare of the Consolidated City and allows the wholesome consumption and enjoyment of fireworks, now therefore:

BE RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA

SECTION 1. The Council urges the Indiana State Legislature to pass Senate Bill No. 9 that will allow the Consolidated City to adopt an ordinance to limit the use or hours of use of fireworks.

SECTION 2. The Council further urges the Governor to support the legislation and for both the State Legislature and the Governor declare the act an emergency as provided in section 3 of the Bill and thus effective upon its passage.



March 5, 2007

SECTION 3. The Clerk is directed to cause a copy of this Resolution, upon its passage, to be delivered to the Office of the Governor of Indiana, Senator David Long, President Pro Tempore, Indiana State Senate and to Rep. B. Patrick Bauer, Speaker, Indiana House of Representatives.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 15, 2007. Councillor Sanders reported that the Administration and Finance Committee heard Proposal No. 15, 2007 on February 20, 2007. The proposal, sponsored by Councillors Gray, Conley and Sanders, reappoints Councillor Marilyn Pfisterer to the City-County Internal Audit Committee. By a 5-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Sanders moved, seconded by Councillor Conley, for adoption. Proposal No. 15, 2007 was adopted by a unanimous voice vote.

Proposal No. 15, 2007 was retitled COUNCIL RESOLUTION NO. 31, 2007, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 31, 2007

A COUNCIL RESOLUTION reappointing Councillor Marilyn Pfisterer to the City-County Internal Audit Committee.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the City-County Internal Audit Committee, the Council reappoints:

Councillor Marilyn Pfisterer

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2007.

SECTION 3. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Councillor Mahern reported that the Metropolitan Development Committee heard Proposal Nos. 31, 60, 61 and 63, 2007 on February 21, 2007. He asked for consent to vote on these proposals together. Consent was given.

PROPOSAL NO. 31, 2007. The proposal, sponsored by Councillors Gray, Conley and Sanders, reappoints Amy Kotzbauer to the Metropolitan Board of Zoning Appeals, Board I. PROPOSAL NO. 60, 2007. The proposal, sponsored by Councillor Gray, reappoints Joanna Taft to the Metropolitan Board of Zoning Appeals, Board II. PROPOSAL NO. 61, 2007. The proposal, sponsored by Councillor Gray, reappoints Bruce Curry to the Metropolitan Board of Zoning Appeals, Board II. PROPOSAL NO. 63, 2007. The proposal, sponsored by Councillor Gray, reappoints Frank Hagaman to the Metropolitan Board of Zoning Appeals, Board III. By 7-0 votes, the Committee reported the proposals to the Council with the recommendation that they do pass. Councillor Mahern moved, seconded by Councillor Sanders, for adoption. Proposal Nos. 31, 60, 61 and 63, 2007 were adopted by a unanimous voice vote.

Proposal No. 60, 2007 was retitled COUNCIL RESOLUTION NO. 32, 2007, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 32, 2007

A COUNCIL RESOLUTION re-appointing Joanna Taft to the Metropolitan Board of Zoning Appeals, Board II.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Metropolitan Board of Zoning Appeals, Board II, the Council re-appoints:

Joanna Taft

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2007 or until the appointee's successor is appointed and qualified.

SECTION 3. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 61, 2007 was retitled COUNCIL RESOLUTION NO. 33, 2007, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 33, 2007

A COUNCIL RESOLUTION re-appointing Bruce Curry to the Metropolitan Board of Zoning Appeals, Board II.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Metropolitan Board of Zoning Appeals, Board II, the Council re-appoints:

Bruce Curry

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2007 or until the appointee's successor is appointed and qualified.

SECTION 3. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 63, 2007 was retitled COUNCIL RESOLUTION NO. 34, 2007, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 34, 2007

A COUNCIL RESOLUTION re-appointing Frank Hagaman to the Metropolitan Board of Zoning Appeals, Board III.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Metropolitan Board of Zoning Appeals, Board III, the Council re-appoints:

Frank Hagaman

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2007 or until the appointee's successor is appointed and qualified.

SECTION 3. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 31, 2007 was retitled COUNCIL RESOLUTION NO. 35, 2007, and reads as follows:

March 5, 2007

CITY-COUNTY COUNCIL RESOLUTION NO. 35, 2007

A COUNCIL RESOLUTION re-appointing Amy Kotzbauer to the Metropolitan Board of Zoning Appeals, Board I.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Metropolitan Board of Zoning Appeals, Board I, the Council re-appoints:

Amy Kotzbauer

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2007 or until the appointee's successor is appointed and qualified.

SECTION 3. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Councillor Sanders reported that the Administration and Finance Committee heard Proposal Nos. 57 and 58, 2007 on February 20, 2007. She asked for consent to vote on these proposals together. Consent was given.

PROPOSAL NO. 57, 2007. The proposal, sponsored by Councillors Gray, Brown and Conley, appoints Gregory H. Coleman to the Indianapolis Marion County Building Authority Board of Trustees. PROPOSAL NO. 58, 2007. The proposal, sponsored by Councillors Borst, Salisbury, McWhirter and Pfisterer, appoints Robert Lutz to the Equal Opportunity Advisory Board. By 5-0 votes, the Committee reported the proposals to the Council with the recommendation that they do pass. Councillor Sanders moved, seconded by Councillor Brown, for adoption. Proposal Nos. 57 and 58, 2007 were adopted by a unanimous voice vote.

Proposal No. 57 2007 was retitled COUNCIL RESOLUTION NO. 36, 2007, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 36, 2007

A COUNCIL RESOLUTION appointing Gregory H. Coleman to the Indianapolis Marion County Building Authority Board Of Trustees.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Indianapolis Marion County Building Authority Board Of Trustees the Council appoints:

Gregory H. Coleman

SECTION 2. The appointment made by this resolution is for a term ending December 31, 2010, and/or until a successor is appointed and qualified.

SECTION 3. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 58 2007 was retitled COUNCIL RESOLUTION NO. 37, 2007, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 37, 2007

A COUNCIL RESOLUTION appointing Robert Lutz to the Equal Opportunity Advisory Board.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Equal Opportunity Advisory Board, the Council appoints:

Robert Lutz

SECTION 2. The appointment made by this resolution, pursuant to Sec. 581-302 of the Revised Code of the City and County, is for a term ending December 31, 2009 and/or until a successor is appointed and qualifies.

SECTION 3. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 68, 2007. Councillor Moriarty Adams reported that the Public Safety and Criminal Justice Committee heard Proposal No. 68, 2007 on February 28, 2007. The proposal, sponsored by Councillor Gray, reappoints Katy Behan to the Indianapolis Metropolitan Citizens Police Complaint Board. By a 5-0 vote, the Committee reported the proposal to the Council with the recommendation that it be stricken. Councillor Moriarty Adams moved, seconded by Councillor Oliver, to strike. Proposal No. 68, 2007 was stricken by a unanimous voice vote.

PROPOSAL NO. 74, 2007. Councillor Boyd reported that the Rules and Public Policy Committee heard Proposal No. 74, 2007 on February 26, 2007. The proposal, sponsored by Councillors Gray, Brown and Conley, reappoints Belle T. Choate to the Marion County Alcoholic Beverage Board. By a 5-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Boyd moved, seconded by Councillor Conley, for adoption. Proposal No. 74, 2007 was adopted by a unanimous voice vote.

Proposal No. 74, 2007 was retitled COUNCIL RESOLUTION NO. 38, 2007, and reads as follows:

CITY-COUNTY COUNCIL RESOLUTION NO. 38, 2007

A COUNCIL RESOLUTION reappointing Belle T. Choate to the Marion County Alcoholic Beverage Board.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. As a member of the Marion County Alcoholic Beverage Board, the Council reappoints:

Belle T. Choate

SECTION 2. The appointment made by this resolution, pursuant to Sec. 281-211 of the Revised Code of the City and County, is for a term ending December 31, 2007 and until a successor is appointed and qualified.

SECTION 3. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

**INTRODUCTION OF PROPOSALS**

PROPOSAL NO. 100, 2007. Introduced by Councillors Gray, Conley and Gibson. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which reappoints John Thompson to the City-County Administrative Board"; and the President referred it to the Administration and Finance Committee.

PROPOSAL NO. 101, 2007. Introduced by Councillors Gray, Conley and Brown. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which reappoints Brenda Rising-Moore to the City-County Administrative Board"; and the President referred it to the Administration and Finance Committee.

PROPOSAL NO. 102, 2007. Introduced by Councillors Sanders, Nytes, Langsford and Brown. The Clerk read the proposal entitled: "A Proposal for a General Resolution which authorizes the issuance of up to \$75 million in refunding bonds to generate savings and provide funds for capital projects"; and the President referred it to the Administration and Finance Committee.

PROPOSAL NO. 103, 2007. Introduced by Councillors Franklin, Gray, Bateman, Brown, Conley and Sanders. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints John Bartlett to the Lawrence Economic Development Commission"; and the President referred it to the Economic Development Committee.

PROPOSAL NO. 104, 2007. Introduced by Councillors Nytes, Moriarty Adams, Langsford and Keller. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an increase of \$250,000 in the 2007 Budget of the Office of Finance and Management (City Cumulative Capital Fund) to replace the plumbing in the Historic City Market, which is undergoing renovations"; and the President referred it to the Economic Development Committee.

PROPOSAL NO. 105, 2007. Introduced by Councillors Brown and Conley. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which reappoints Monroe Gray to the Capital Improvement Board of Managers"; and the President referred it to the Municipal Corporations Committee.

PROPOSAL NO. 106, 2007. Introduced by Councillors Brown, Conley and Gray. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Debbie Grew to the Indianapolis Greenways Development Committee, as a representative of the Eagle Creek area"; and the President referred it to the Parks and Recreation Committee.

PROPOSAL NO. 107, 2007. Introduced by Councillors Gray, Brown, Conley and Sanders. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints David Green to the Marion County Juvenile Detention Center Advisory Board"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 108, 2007. Introduced by Councillors Moriarty Adams, Brown, Conley and Gibson. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an increase of \$450,000 in the 2007 budget of the Marion County Public Defender Agency (County General Fund) to contract with approximately twenty five (25) attorneys to work part-time on cases involving termination of parental rights (TPR) and children in need of services (CHIN)"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 109, 2007. Introduced by Councillors Moriarty Adams, Borst, Brown, Conley and Gibson. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which appropriates \$6,550 in the 2007 Budget of Marion Superior Court (State and Federal Grants Fund) to promote local drug court programs and produce a community education video, funded by a grant from the Indiana Supreme Court"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 110, 2007. Introduced by Councillors Moriarty Adams, Brown and Conley. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which appropriates \$174,461 in the 2007 Budgets of the Marion Superior Court, Marion County Prosecutor and Marion County Justice Agency (Drug Free Community Fund) for various Drug Free Community grants: \$62,500 to partially fund the Marion County Drug Treatment Court and a Community Court Resource Coordinator; \$46,961 to fund an investigator in the Community Prosecution Division; and \$65,000 to provide a grant to Drug Free Marion County to cover administrative expensive, financed by a reduction of current appropriations and existing fund balance"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 111, 2007. Introduced by Councillors Sanders, Nytes, Moriarty Adams, Brown, Langsford, Keller, Gray and Conley. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an increase of \$400,000 in the 2007 Budget of the Indianapolis Metropolitan Police Department and the Department of Public Safety, Fire Division (City Cumulative Capital Fund), to purchase approximately ten replacement vehicles each"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 112, 2007. Introduced by Councillors Moriarty Adams, Brown and Oliver. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves a transfer of \$47,600 in the 2007 Budget of the Marion County Justice Agency (Law Enforcement Fund) to fund a contract with IUPUI to extract and analyze data for the Juvenile Detention Alternatives Initiative (JDAI)"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 113, 2007. Introduced by Councillors Gray, Conley, Oliver and Brown. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints John Charleston to the Board of Public Works"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 114, 2007. Introduced by Councillors Gray and Conley. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a change in the speed limit on 38th Street between Cold Springs Road and Michigan Road (District 8)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 115, 2007. Introduced by Councillors Gray and Conley. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes multi-way stops at Collingwood Drive and Walden Lane and 56th Street and Walden Lane (District 8)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 116, 2007. Introduced by Councillors Schneider and Conley. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a multi-way stop at the intersection of 61st Street and Dearborn Street (District 4)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 117, 2007. Introduced by Councillors Keller and Conley. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes no parking restrictions on Summit Street between Williams Street and Washington Street (District 16)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 118, 2007. Introduced by Councillors Mahern and Conley. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes intersection controls at

Goodlet Avenue and Southern Avenue (District 19)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 119, 2007. Introduced by Councillors Day and Conley. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes no parking restrictions on Bethel Avenue near Wagner Lane (District 20)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 120, 2007. Introduced by Councillors Cockrum and Conley. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes intersection controls for the Camby Village Subdivision, Section 1 (District 22)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 121, 2007. Introduced by Councillors Cockrum and Conley. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes intersection controls for Wellingshire Boulevard and Tibbs Avenue (District 22)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 122, 2007. Introduced by Councillors Cockrum and Conley. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes intersection controls for Copperwood at Wellingshire (District 22)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 123, 2007. Introduced by Councillors Cockrum and Conley. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes intersection controls for the Villas of Lake Lakota at Wellingshire (District 22)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 124, 2007. Introduced by Councillors Cockrum and Conley. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a traffic signal for the intersection of Airport Expressway and Bradbury Avenue (District 22)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 125, 2007. Introduced by Councillors Speedy and Conley. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a multi-way stop at Cinnamon Place and Tarragon Place (District 24)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 126, 2007. Introduced by Councillors Plowman and Conley. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes intersection controls for the Foxfire Subdivision, Sections 1 and 2 (District 25)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 127, 2007. Introduced by Councillors Plowman and Conley. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes intersection controls for the Flat Branch Subdivision (District 25)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 128, 2007. Introduced by Councillors Conley, Gray and Borst. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Betty Wilson to the

Council's County Salary Recommendation Panel, as a Majority Leader's appointment"; and the President referred it to the Rules and Public Policy Committee.

PROPOSAL NO. 129, 2007. Introduced by Councillors Borst, Gray and Conley. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Jim Glynn to the Council's County Salary Recommendations Panel, as the Minority Leader's appointment"; and the President referred it to the Rules and Public Policy Committee.

PROPOSAL NO. 130, 2007. Introduced by Councillors Gray, Brown and Conley. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Richard Curry, Jr. to the Cable Franchise Board"; and the President referred it to the Rules and Public Policy Committee.

PROPOSAL NO. 131, 2007. Introduced by Councillors Gray, Conley and Brown. The Clerk read the proposal entitled: "A Proposal for a Council Resolution which appoints Doris Clark as a member of the Early Intervention Planning Council"; and the President referred it to the Rules and Public Policy Committee.

PROPOSAL NO. 132, 2007. Introduced by Councillors Sanders and McWhirter. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves a transfer of \$41,050 in the 2007 Budget of the Cable Communications Agency (Consolidated County Fund) to fund operational costs for the Educational Television Consortium, such as line leases and engineering, financed by a public purpose grant appropriated but not encumbered in 2006"; and the President referred it to the Rules and Public Policy Committee.

PROPOSAL NO. 133, 2007. Introduced by Councillors Sanders, Conley, Brown and Gray. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which amends the Code to permit the county assessor to serve on the information technology board and who may serve by annually appointed proxy"; and the President referred it to the Rules and Public Policy Committee.

PROPOSAL NO. 134, 2007. Introduced by Councillors Gray, Bateman, Borst, Boyd, Brown, Conley, Franklin, Gibson, Keller, Langsford, Mahern, Mansfield, Moriarty Adams, Nytes, Oliver, Pryor and Sanders. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which amends the Code to regulate the sale and resale of SuperBowl tickets"; and the President referred it to the Rules and Public Policy Committee.

PROPOSAL NO. 135, 2007. Introduced by Councillors Gray, Bateman, Borst, Brown, Conley, Boyd, Franklin, Gibson, Keller, Langsford, Mahern, Mansfield, Moriarty Adams, Nytes, Oliver, Pryor and Sanders. The Clerk read the proposal entitled: "A Proposal for a General Resolution which agrees to support and provide resources necessary for the City of Indianapolis to host the SuperBowl"; and the President referred it to the Rules and Public Policy Committee.

#### **SPECIAL ORDERS - PRIORITY BUSINESS**

PROPOSAL NO. 141, 2007, PROPOSAL NO. 142, 2007, PROPOSAL NOS. 143-146, 2007, PROPOSAL NOS. 147-150, 2007. Introduced by Councillor Mahern. Proposal No. 141, 2007, Proposal No. 142, 2007, Proposal Nos. 143-146, 2007, and Proposal Nos. 147-150, 2007 are proposals for Rezoning Ordinances certified by the Metropolitan Development Commission on February 21 and 23, 2007. The President called for any motions for public hearings on any of those zoning maps changes. There being no motions for public hearings, the proposed



ordinances, pursuant to IC 36-7-4-608, took effect as if adopted by the City-County Council, were retitled for identification as REZONING ORDINANCE NOS. 18-27, 2007, the original copies of which ordinances are on file with the Metropolitan Development Commission, which were certified as follows:

REZONING ORDINANCE NO. 18, 2007.

2006-ZON-004

5988 MICHIGAN ROAD (Approximate Address), INDIANAPOLIS  
WASHINGTON TOWNSHIP, COUNCILMANIC DISTRICT # 8.

5940 REALTY, LLC, by Joseph D. Calderon, requests a rezoning of 3.06 acres, being in the C-3 and D-3 Districts, to the C-S classification to provide for all uses permitted in the C-1, C-3, I-1-S, I-2S, SU-1, SU-2, SU-7, SU-9, SU-34, SU-37 and SU-38 Districts.

REZONING ORDINANCE NO. 19, 2007.

2006-ZON-840

4309, 4315 AND 4343 EAST 62<sup>ND</sup> STREET (Approximate Addresses), INDIANAPOLIS  
WASHINGTON TOWNSHIP, COUNCILMANIC DISTRICT # 4

DR. JEROME CURETON, by Joseph D. Calderon, requests rezoning of 2.489 acres, from the D-2 District, to the C-3C classification to provide for corridor commercial uses.

REZONING ORDINANCE NO. 20, 2007.

2006-ZON-083

223 SOUTH LASALLE STREET (Approximate Address), INDIANAPOLIS  
CENTER TOWNSHIP, COUNCILMANIC DISTRICT # 16

DONALD P. AND LORI KATZ, by Stephen D. Mears requests rezoning of 2.97 acres, from the D-5 and I-3-U Districts, to the I-3-U classification to provide for medium industrial urban uses.

REZONING ORDINANCE NO. 21, 2007.

2006-ZON-129

1950 KESSLER BOULEVARD WEST DRIVE (Approximate Address), INDIANAPOLIS  
WASHINGTON TOWNSHIP, COUNCILMANIC DISTRICT # 8

VALPARAISO REALTY, LLC, by William T. Niemier, requests rezoning of 0.805 acre, from the D-2 and C-3 Districts, to the C-3 classification to provide for neighborhood commercial uses.

REZONING ORDINANCE NO. 22, 2007.

2006-ZON-138

2616 EAST HANNA AVENUE (Approximate Address), INDIANAPOLIS  
PERRY TOWNSHIP, COUNCILMANIC DISTRICT # 20

THE WATERS OF INDIANAPOLIS, LLC, by Marci Reddick, requests rezoning of 1.82 acres, from the D-4 District, to the C-1 classification to provide for the expansion of a nursing home.

REZONING ORDINANCE NO. 23, 2007.

2006-ZON-140

7911 ZIONSVILLE ROAD (Approximate Address), INDIANAPOLIS  
PIKE TOWNSHIP, COUNCILMANIC DISTRICT # 1

AEARO COMPANY 1, INC., by Mary E. Solada requests rezoning of 11.388 acres, from the I-1-S District, to the I-2-S classification to provide for light industrial uses.

REZONING ORDINANCE NO. 24, 2007.

2006-ZON-117 (Amended)

12025 PENDLETON PIKE (Approximate Address), INDIANAPOLIS  
LAWRENCE TOWNSHIP, COUNCILMANIC DISTRICT # 12

M.F. GORSKI DEVELOPMENTS, INC., by Eugene Valanzano requests rezoning of 1.74 acres, from the D-A District, to the C-S classification to provide for limited residential, office, medical, retail and service uses, permitted by the C-1, C-3, C-3C and C-4 districts.

REZONING ORDINANCE NO. 25, 2007.

2006-ZON-126

5605 SOUTH FRANKLIN ROAD (Approximate Address), INDIANAPOLIS  
FRANKLIN TOWNSHIP, COUNCILMANIC DISTRICT # 25

GRACE CHURCH, by David A. Retherford, requests rezoning of 8.941 acres, from the D-A District, to the SU-1 classification to provide for religious uses.

REZONING ORDINANCE NO. 26, 2007.

2006-ZON-135

6680 EAST 38<sup>TH</sup> STREET AND 3828 ELIZABETH STREET (Approximate Address), CITY OF LAWRENCE

LAWRENCE TOWNSHIP, COUNCILMANIC DISTRICT # 11

IRA TORAN requests rezoning of 2.57 acres, from the D-4 District, to the SU-16 classification to provide for the indoor and outdoor commercial amusement, recreation and entertainment uses.

REZONING ORDINANCE NO. 27, 2007.

2006-ZON-861 (Amended)

4902, 4918, 4922, 4926 AND 4930 NORTH COLLEGE AVENUE AND 650 EAST 49<sup>TH</sup> STREET (Approximate Address), INDIANAPOLIS

WASHINGTON TOWNSHIP, COUNCILMANIC DISTRICT # 9

4950, LLC, by Thomas Michael Quinn requests rezoning of 1.157 acres, from the D-5 (W-5) and C-3 (W-5) Districts, to the C-S (W-5) classification to provide for five dwelling units and neighborhood commercial uses.

### **SPECIAL ORDERS - PUBLIC HEARING**

Councillor Moriarty Adams reported that the Public Safety and Criminal Justice Committee heard Proposal Nos. 94 and 95, 2007 on February 28, 2007. She asked for consent to vote on these proposals together. Consent was given.

PROPOSAL NO. 94, 2007. The proposal, sponsored by Councillors Moriarty Adams, McWhirter and Gibson, approves an increase of \$155,000 in the 2007 Budget of the Indianapolis Metropolitan Police Department (Federal Grants Fund) to fund office and mobile computer lab equipment and supplies for the Internet Crimes Against Children program funded by a Department of Justice grant, to pay for overtime of officers patrolling the Mozel Sanders Apartment complex funded by a Community Development Block Grant, and to re-appropriate a 2006 grant from the Department of Justice to purchase laptop computers and mounts for patrol cars. PROPOSAL NO. 95, 2007. The proposal, sponsored by Councillors Moriarty Adams and McWhirter, transfers \$444,799 in the 2007 Budget of the Department of Public Safety (Non-Lapsing Federal Grants Fund) to align the budget with the new direction of the Urban Areas Security Initiative (UASI) to support Emergency Management Division staff overtime, exercise and training facilitators, travel for out of state training and meetings, software for extracting data from the MECA Computer Aided Dispatch System, a web-based learning site and contractual overtime for large scale training and exercises. By 6-0 votes, the Committee reported the proposals to the Council with the recommendation that they do pass.

President Gray called for public testimony at 8:00 p.m. There being no one present to testify, Councillor Moriarty Adams moved, seconded by Councillor Gibson, for adoption. Proposal Nos. 94 and 95, 2007 were adopted on the following roll call vote; viz:

*28 YEAS: Abdullah, Bateman, Borst, Boyd, Brown, Cain, Cockrum, Conley, Day, Franklin, Gibson, Gray, Keller, Langsford, Mahern, Mansfield, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Pryor, Randolph, Salisbury, Sanders, Schneider, Speedy, Vaughn*

*0 NAYS:*

*1 ABSENT: McWhirter*

Proposal No. 94, 2007 was retitled FISCAL ORDINANCE NO. 13, 2007, and reads as follows:

March 5, 2007

CITY-COUNTY FISCAL ORDINANCE NO. 13, 2007

A FISCAL ORDINANCE amending the City-County Annual Budget for 2007 (City-County Police Special Service District Ordinance No. 1, 2006) appropriating One Hundred Fifty Five Thousand Dollars (\$155,000) in the Federal Grants Fund for purposes of the Indianapolis Metropolitan Police Department.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1 of the City-County Annual Budget for 2007 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the Indianapolis Metropolitan Police Department to provide for services and equipment related to the Internet Crimes Against Children program, patrol services for Mozel Sanders Apartments, and to purchase laptops for patrol cars.

SECTION 2. The sum of One Hundred Fifty Five Thousand Dollars (\$155,000) be, and the same is hereby appropriated for the purposes as shown in Section 3 by reducing the appropriated balance as shown in Section 4.

SECTION 3. The following additional appropriation is hereby approved:

<u>INDIANAPOLIS METROPOLITAN POLICE DEPARTMENT</u>	<u>FEDERAL GRANTS FUND</u>
1. Personal Services	40,000
2. Supplies	,090
3. Other Services and Charges	7,720
4. Capital Outlay	<u>106,190</u>
TOTAL INCREASE	155,000

SECTION 4. The said additional appropriation is funded by the following reductions:

	<u>FEDERAL GRANTS FUND</u>
Unappropriated and Unencumbered	
Federal Grants Fund	<u>155,000</u>
TOTAL REDUCTION	155,000

SECTION 5. There is no local match related to this grant.

SECTION 6. Except to the extent of matching funds approved in the ordinance, the council does not intend to use the revenues from any local tax regardless of source to supplement or extend the appropriations for the agencies or projects authorized by this ordinance. The supervisor of the agency or project, or both, and the controller are directed to notify in writing the city-county council immediately upon receipt of any information that the agency or project is, or may be, reduced or eliminated.

SECTION 7. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14

Proposal No. 95, 2007 was retitled FISCAL ORDINANCE NO. 14, 2007, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 14, 2007

A FISCAL ORDINANCE amending the City-County Annual Budget for 2007 (City-County Fiscal Ordinance No. 86, 2006) transferring and appropriating Four-hundred Forty Four Thousand Seven Hundred Ninety-nine Dollars (\$444,799) in the Non-Lapsing Federal Grants Fund for purposes of the Department of Public Safety, and reducing certain other accounts for that agency.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1.01(k) of the City-County Annual Budget for 2007 be, and is hereby amended by the increases and reductions hereinafter stated for purposes of the Department of Public Safety, to align the budget with the new direction of the Urban Areas Security Initiative (UASI) to support Emergency Management staff overtime, exercise and training facilitators, travel for out of state training and meetings, software for extracting data from the MECA Computer Aided Dispatch System, a web-based learning site and contractual overtime for large scale training and exercises, financed by transfers between characters.

SECTION 2. The sum of Four-hundred Forty Four Thousand Seven Hundred Ninety-nine Dollars (\$444,799) be, and the same is hereby, appropriated for the purposes as shown in Section 3 by reducing the unappropriated balances as shown in Section 4.

SECTION 3. The following additional appropriation is hereby approved:

<u>DEPARTMENT OF PUBLIC SAFETY</u>	<u>NON-LAPSING FEDERAL GRANTS FUND</u>
1. Personal Services	0
2. Supplies	0
3. Other Services and Charges	444,799
4. Capital Outlay	0
5. Internal Charges	<u>0</u>
TOTAL INCREASE	444,799

SECTION 4. The said additional appropriation is funded by the following reductions:

<u>DEPARTMENT OF PUBLIC SAFETY</u>	<u>NON-LAPSING FEDERAL GRANTS FUND</u>
1. Personal Services	170,000
2. Supplies	55,104
3. Other Services and Charges	0
4. Capital Outlay	219,695
5. Internal Charges	<u>0</u>
TOTAL INCREASE	444,799

SECTION 5. Except to the extent of matching funds, if any, approved in this ordinance, the council does not intend to use the revenues from any local tax regardless of source to supplement or extend the appropriation for the agencies or projects authorized by this ordinance. The supervisor of the agency or project, or both, and the controller are directed to notify in writing the city-county council immediately upon receipt of any information that the agency or project is, or may be, reduced or eliminated.

SECTION 6. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

### **SPECIAL ORDERS - FINAL ADOPTION**

PROPOSAL NO. 91, 2007. Councillor Boyd reported that the Rules and Public Policy Committee heard Proposal No. 91, 2007 on February 26, 2007. The proposal, sponsored by Councillor Mahern, amends portions of the Code regarding zoning ordinances to clarify the definition of commercial vehicle; to authorize stop work orders against the violator as well as the property owner; to increase the penalties of repeat zoning violators; to adjust the setbacks in the Town of Meridian Hills, to allow one-ton passenger cars and trucks in certain instances to be parked in dwelling districts; to clarify the parking requirement and standards in the front yards of the dwelling districts; to establish the parking requirements for dwellings in commercial areas; to clarify the need of a special exception for certain uses; to specifically authorize temporary auto sales in the C-4 district; to establish a minimum separation between firework sales and protected districts; and to update state statute and department citations. By a 5-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Boyd moved, seconded by Councillor Mahern, for adoption. Proposal No. 91, 2007 was adopted on the following roll call vote; viz:

28 YEAS: *Abduallah, Bateman, Borst, Boyd, Brown, Cain, Cockrum, Conley, Day, Franklin, Gibson, Gray, Keller, Langsford, Mahern, Mansfield, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Pryor, Randolph, Salisbury, Sanders, Schneider, Speedy, Vaughn*  
0 NAYS:  
1 ABSENT: *McWhirter*

Proposal No. 91, 2007 was retitled GENERAL ORDINANCE NO. 3, 2007, and reads as follows:

CITY-COUNTY GENERAL ORDINANCE NO. 3, 2007

Metropolitan Development Commission Docket No. 2006-AO-01

A GENERAL ORDINANCE to amend portions of the "Revised Code of the Consolidated City and County" regarding zoning ordinances to clarify the definition of commercial vehicle; to authorize stop work orders against the violator as well as the property owner; to increase the penalties of repeat zoning violators; to adjust the setbacks in the Town of Meridian Hills, to allow one-ton passenger cars and trucks in certain instances to be parked in dwelling districts; to clarify the parking requirement and standards in the front yards of the dwelling districts; to establish the parking requirements for dwellings in commercial areas; to clarify the need of a special exception for certain uses; to specifically authorize temporary auto sales in the C-4 district; to establish a minimum separation between firework sales and protected districts; and to update state statute and department citations.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Chapter 730, Article V, Sections 501, 504, 505 and 506 of the "Revised Code of the Consolidated City and County," regarding zoning code enforcement and remedies and definitions, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows, and to renumber as needed:

**Sec. 730-501. Definitions.**

For purposes of this article, the following definitions shall be applied:

(1) *Administrator* means the Administrator of the Division of Compliance of the Department of Metropolitan Development of the Consolidated City of Indianapolis.

(2) *Designated enforcement entity* means the Metropolitan Development Commission of Marion County, Indiana.

(3) *Inoperable motor vehicle* means:

- a. A motor vehicle, racing vehicle, recreational vehicle, trailer, camper, boat, airplane, bus, truck, or similar vehicle from which ~~there~~ has been removed engine, transmission or differential parts or that is otherwise partially dismantled or mechanically inoperable; or
- b. Any motor vehicle, racing vehicle, recreational vehicle, trailer, camper, boat, airplane, bus, truck, or similar vehicle, which cannot be driven, towed or hauled on a city street without being subject to the issuance of a traffic citation by reason of its operating condition or the lack of a valid license plate.

(4) *Inspectors* means employees of the division of compliance authorized by the Administrator to enter, examine and survey all lands within Marion County to accomplish the enforcement of all zoning ordinances and land use regulations of Marion County.

(5) *Land use petition* means a rezoning petition, variance petition, approval petition, special exception petition, or any other petition permitted by the rules of procedure adopted by the Metropolitan Development Commission of Marion County or the Metropolitan Board of Zoning Appeals.

(6) *Law enforcement officer* means any sworn member of the Marion County sheriff's department, Indianapolis ~~Police Department~~ Metropolitan Law Enforcement Agency, Beech Grove police department, Lawrence police department, Southport police department, Speedway police department, or Cumberland police department, acting within their legal authority and jurisdiction.

(7) *Site improvement* means the erection, construction, placement, repair, alteration, conversion, removal, demolition, maintenance, moving, razing or remodeling of any new or existing structure or any part thereof; any activity for which an Improvement Location Permit is required.

(8) *Zoning districts* mean the districts depicted by the comprehensive zoning maps of Marion County, Indiana.

**Sec. 730-502. Jurisdiction.**

(a) The Metropolitan Development Commission of Marion County may institute a suit for injunctive and monetary relief in the municipal, circuit, or superior courts of Marion County, Indiana; such suit is to be brought in the name of and captioned as "The Metropolitan Development Commission of Marion County, Indiana," versus the person, persons or entity charged with violating the provisions of any zoning ordinance or land use regulations of Marion County, Indiana.

(b) The Metropolitan Development Commission may also institute a suit for mandatory injunction directing a person, persons or entity to remove a structure erected in violation of any zoning ordinances or land use regulations of Marion County, Indiana.

(c) A structure erected, raised, or converted, or land or premises used in violation of any zoning and land use ordinance of Marion County, Indiana, shall and hereby is declared to be a common nuisance and the owner or possessor of the structure, land, or premises shall be liable for maintaining a common nuisance pursuant to IC 36-7-4-1012.

**Sec. 730-503. Inspection of property; right of entry.**

(a) The *Administrator, Inspectors* and *Law enforcement officers* are authorized to make inspections of all lands located within Marion County in order to enforce all zoning ordinances and land use regulations of Marion County, Indiana.

(b) In order to execute inspections, the *Administrator, Inspectors* and *Law enforcement officers* shall have the right to enter upon any premises at any reasonable time for the purpose of carrying out his/her duties in the enforcement of zoning ordinances and land use regulations of Marion County, Indiana, unless the owner or occupant of the premises refuses to permit entry to the *Administrator, Inspectors* or *Law enforcement officers* when such entry is sought pursuant to this section. In the event of such refusal, the *Administrator* may make application to any judge of the municipal, circuit or superior courts of Marion County, Indiana, for the issuance of an administrative search warrant. Such application shall identify the premises upon which entry is sought and the purpose for which entry is desired. The application shall state the facts giving rise to the belief that a condition which is a violation of a zoning ordinance or land use regulation of Marion County, Indiana, exists on such premises, or that a violation in fact exists and must be abated, and that the condition or violation is not a lawful nonconforming use to the best of the affiant's belief. Any warrant issued pursuant to such application shall order such owner or occupant to permit entry to the *Administrator, Inspectors* or *Law enforcement officers* for the purposes stated therein. In no event shall the *Administrator, Inspectors* or *Law enforcement officers* have the right to enter a residential structure or other structures not open to the public without the permission of the owner or occupant and/or an administrative search warrant first obtained. Prior to entering such residential structure or other structure not open to the public, the *Administrator, Inspectors* or *Law enforcement officers* shall advise the owner or occupant that such owner or occupant is not required to grant entry without the presentation of an administrative search warrant.

**Sec. 730-504. Stop-work order.**

(a) The Administrator or his duly authorized designee is empowered to issue an order requiring the suspension of land improvement of any kind when any of the following circumstances exist:

- (1) Site improvement is occurring without an Improvement Location Permit or any other permit required by a zoning ordinance having first been obtained;
- (2) Site improvement is occurring in violation of the terms or conditions of any special exception or variance granted under the metropolitan development law as contemplated by IC 36-7-4; in violation of conditions imposed by the Plat Committee under the metropolitan development law; in violation of covenants made in connection with the platting of a subdivision that is approved by the Plat Committee; in violation of commitments made in accordance with IC 36-7-4-607 or IC 36-7-4-921; or in violation of the terms, conditions or provisions of any Marion County zoning ordinance; and
- (3) Site improvement is occurring for which a certificate of appropriateness from the Indianapolis Historic Preservation Commission is required pursuant to IC 36-7-11.1-1 et seq., without a certificate of appropriateness having first been issued.

(b) The stop-work order shall be posted on the property in a conspicuous place, or personally delivered to the owner, possessor, ~~or~~ person in charge, or person causing the violation and state the conditions under which construction or other activity may be resumed. The Administrator or his duly

authorized designee shall meet with the recipient of a stop-work order upon request to explain the conditions under which construction or other activity may be resumed.

(c) The designated enforcement entity may institute a suit in a court of competent jurisdiction to enforce the provision of a stop-work order.

(d) Enforcement activity may be pursued against owner, possessor, person in charge, person causing the violation, or combination thereof.

**Sec. 730-505. Civil zoning violations.**

(a) It shall be unlawful for any person who is the owner or contract vendee of, or who has a possessory interest in, real property located in Marion County to cause, suffer or allow any of the following civil zoning violations to occur on such property:

- (1) The location, erection, or maintenance of any sign not specifically permitted by Chapter 734 of this Code;
- (2) The failure to obtain an Improvement Location Permit when one is required by the terms and provisions of Article III of this chapter;
- (3) The outdoor storage of junk, trash, or debris in any zoning district, the provisions of which do not specifically permit such a use;
- (4) The outdoor storage of inoperable vehicles or vehicle parts in any zoning district, the provisions of which do not specifically permit such a use;
- (5) The parking or storage in any zoning district, the provisions of which do not specifically permit such a use, of any vehicle used or designed:
  - a. for use in pulling, towing, hauling, transporting, or
  - b. as a temporary or permanent base, platform or support for equipment, machinery, materials or other goods.

This provision shall include but not be limited to school buses, buses used for public transportation, stake body trucks, dump trucks, trucks or tractors having dual rear wheels or more than two (2) axles, semi-trailer tractors, semi-trailers and trailers having dual rear wheels or more than one (1) axle or having an overall length of more than twelve (12) feet.

However, this provisions does not apply to motor vehicles which do not exceed the one-ton load capacity in size and which are the sole vehicular transportation for a resident of the property upon which the motor vehicle is parked or stored and which bear no commercial signs, logos, or lettering;

- (6) The outdoor storage or display of merchandise or goods in any zoning district, the provisions of which do not specifically permit such a use or in violation of zoning district development standards regulating such use;
- (7) The conduct of any activity in a dwelling zoning district, not specifically enumerated as a permitted primary or accessory use in that zoning district, and which activity has not been legally established by a currently valid variance, special exception or other approval grant;
- (8) Failure to comply with zoning district development standards, including but not limited to landscaping, paving or striping of parking areas, minimum parking space requirements, dumpster enclosure, fencing or screening requirements;
- (9) The failure to comply with the terms, provisions, conditions or commitments of a variance grant, special exception, rezoning ordinance, or other approval grant; ~~and~~.
- ~~(10) The violation of a stop-work order issued pursuant to section 730-504.~~

(b) Each day a civil zoning violation remains uncorrected constitutes a second or subsequent violation. It shall be a defense to an action to enforce a civil zoning violation that the use or activity alleged to be a civil zoning violation is a legally established nonconforming use.

**Sec. 730-506. Civil zoning violations; enforcement.**

(a) The first civil zoning violation in ~~any calendar year~~ a twelve-month period shall be subject to admission of violation and payment of the designated civil penalty through the ordinance violations bureau in accordance with Chapter 103 of this Code.

(b) In addition to the procedures listed in Chapter 103 of this Code, a person who has been cited for a violation of this section may elect to file a land use petition. The filing of a land use petition, or subsequent issuance of a variance, special exception, rezoning or other approval of the land use petition, shall not constitute a defense of any civil zoning violation which occurs prior to the issuance of the variance, special exception, rezoning or other approval.

(c) All second and subsequent violations in a twelve-month period ~~the calendar year~~ are subject to the enforcement procedures and penalties provided in section 103-3 of this Code.

**Sec. 730-507. Conflict of ordinance; severability, partial invalidity.**

(a) If this article is in conflict with any existing ordinance, or any amendment thereof, the one which establishes a higher standard for promotion and protection of public health, safety, comfort, morals, convenience, and general public welfare overrides the other.

(b) If for any reason any article, division, section, subsection, sentence, clause, phrase, or word of this article should be declared unconstitutional or invalid for any reason whatsoever, such decision shall not affect the remaining portions of this article which shall remain in full force and effect; therefore, the provisions of this article are hereby declared severable.

**SECTION 2.** Chapter 731, Article I, Section 102 of the "Revised Code of the Consolidated City and County," regarding the definitions of the dwelling district zoning ordinance, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows, and to renumber as needed:

**Sec. 731-101. Construction of language.**

The language of this ordinance shall be interpreted in accordance with the following regulations:

- (1) The particular shall control the general.
- (2) In the case of any difference of meaning or implication between the text of this ordinance and any illustration or diagram, the text shall control.
- (3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (4) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (5) A "building" or "structure" includes any part thereof.
- (6) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
- (7) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either...or," the conjunction shall be interpreted as follows:
  - a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
  - b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
  - c. "Either...or" indicates that all the connected items, conditions, provisions, or events shall apply singly but not in combination.



**Sec. 731-102. Definitions.**

The words in the text of this article and Article II of this chapter shall be interpreted in accordance with the definitions set forth below.

- (1) *Abut*: To physically touch or border upon; or to share a common property line.
- (2) *Access*: The way by which vehicles shall have ingress to and egress from a land parcel or property and the either street fronting along said property or parcel or an abutting alley.
- (3) *Access drive*: That area within the right-of-way between the pavement edge or curb and the right-of-way line providing ingress and egress to and from a land parcel or property. (See Diagram A.)
- (4) *Accessory*: A subordinate structure, building or use that is customarily associated with, and is appropriately and clearly incidental and subordinate in use, size, bulk, area and height to the primary structure, building, and use, and is located on the same lot as the primary building, structure, or use.
- (5) *Administrator*: Administrator of the Division of Planning or his/her appointed representative.
- (6) *Agricultural enterprise*: The land use of farming, cultivation of crops, dairying, pasturage, horticulture, floriculture, viticulture, animal and poultry husbandry, with the necessary, accompanying accessory use(s), building(s), or structure(s) for housing, packing, treating, or storing said products.
- (7) *Alley*: Any public right-of-way which has been dedicated or deeded to and accepted by the public for public use as a secondary means of public access to a lot(s) otherwise abutting upon a public street and not intended for traffic other than public services and circulation to and from said lot(s).
- (8) *Alteration*: Any change in type of occupancy, or any change, addition or modification in construction of the structural members of an existing structure, such as walls, or partitions, columns, beams or girders, as well as any change in doors or windows or any enlargement to or diminution of a structure, whether it be horizontally or vertically.
- (9) *Antenna*: A device that is designed to receive:
  - a. Direct broadcasts satellite service, including direct-to-home satellite services; or
  - b. Video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services; or
  - c. Television broadcast signals.
- (10) *Attached multifamily dwelling*: See "Dwelling, multifamily attached."
- (11) *Awning*: A roof-like cover, often of fabric, metal or glass designed and intended to either protect from the weather or as a decorative embellishment, and which is supported and projects from a wall or roof of a structure over a window, walk, door, or a similar feature.
- (12) *Balcony, exterior*: An unenclosed platform structure supported by and projecting from the exterior side of a building gaining sole access from said building, and designed and intended for either decorative purposes or lounging, dining, and similar activities.
- (13) *Basement*: That portion of a building with an interior vertical height clearance of not less than seventy-eight (78) inches and having one-half ( 1/2) or more of its interior vertical height clearance below grade level.
- (14) *Bathhouse*: An accessory building of one (1) or more rooms not open to the public, designed and intended for exclusive use by occupant(s) of the primary use and their guest(s) as dressing room(s) and may or may not include sanitary facilities.
- (15) *Bed and breakfast*: The commercial leasing of bedroom(s) for guest(s) within a private, owner-occupied, one- or two-family dwelling unit. Such leasing provides temporary accommodations,

typically including a morning meal, to overnight guests for a fee. Such leasing may also provide for the temporary accommodation of daytime meetings or receptions for guests for a fee. Such leasing caters largely to tourists and the travelling public.

(16) *Boardinghouse*: A community facility, other than hotels, motels, containing accommodation facilities in common where lodging, typically with meals reserved solely for the occupants thereof, is provided for a fee.

(17) *Buildable area*: The area of a lot remaining after the minimum yard and open space requirements of the applicable zoning ordinance(s) have been met. (See Diagram B.)

(18) *Building*: Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property of any kind, having an enclosed space and a permanent roof supported by columns or walls.

(19) *Building area*: The total ground area, within the lot or project, covered by the primary structure, plus garages, carports and other accessory structures which are greater than eighteen (18) inches above grade level, excluding fences and walls not attached in any way to a roof (See Diagram B.)

(20) *Cabana*: Same as "Bathhouse".

(21) *Canopy*: A rooflike cover, often of fabric, metal, or glass on a support, which is supported in total or in part, from the ground providing shelter over a doorway or outside walk.

(22) *Carport*: A roofed structure designed and intended to shelter the automotive vehicle(s) of the premises' occupant(s) or owner(s), with at least one (1) side permanently open to the weather.

(23) *Child*, per IC 12-7-2-28: An individual who is less than eighteen (18) years of age.

(24) *Child care*, per IC 12-7-2-28.2: A service that provides for the care, health, safety, and supervision of a child's social, emotional, and educational growth.

(25) *Child care home*, per IC 12-7-2-28.6:

- a. A residential structure in which at least six (6) children (not including the children for whom the provider is a parent, stepparent, guardian, custodian or other relative) at any time receive child care from a provider:
  - 1. While unattended by a parent, legal guardian, or custodian;
  - 2. For regular compensation; and
  - 3. For more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.
- b. The term includes:
  - 1. A class I child care home;
  - 2. A class II child care home; and
  - 3. Exempt licenses, per 470 IAC 3-1.1-26.

(26) *Class I child care home*, per IC 12-7-2-33.7:

- a. A child care home that serves any combination of full-time and part-time children, not to exceed twelve (12) children at any one (1) time.
- b. A child:
  - 1. For whom the provider of care is a parent, stepparent, guardian, custodian or other relative; and
  - 2. Who is at least seven (7) years of age; shall not be counted in determining whether the child care home is within the limit set forth in subsection a.

(27) *Class II child care home*, per IC 12-7-2-33.8:

- a. A child care home that serves more than twelve (12) children but not more than any combination of sixteen (16) full-time and part-time children at any one (1) time.
- b. A child:
  1. For whom the provider of care is a parent, stepparent, guardian, custodian, or other relative; and
  2. Who is at least seven (7) years of age; shall not be counted in determining whether the child care home is within the limit set forth in subsection a.

(28) *Cluster*: A development design technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space and preservation of environmentally sensitive features in perpetuity.

(29) *Cluster subdivision*: A form of development for single-family residential subdivisions that permits a reduction in the minimum lot: area, width, setback and open space requirements and to concentrate development in specific areas of the subdivision while also maintaining the same overall density permitted under a conventional subdivision in a given zoning district, and, the remaining land area is devoted to open space, or recreational areas in perpetuity.

(30) *Collector street*: See "Street, collector".

(31) *Commission*: The Metropolitan Development Commission of Marion County, Indiana.

(32) *Commitment*: An officially recorded agreement concerning and running with the land as recorded in the Office of the Marion County Recorder.

(33) *Comprehensive plan*: The applicable comprehensive or master plan for Marion County, Indiana, or a segment thereof, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to IC 36-7-4-500 Series, and all acts amendatory thereto.

(34) *Condition*: An official agreement between the municipality and the petitioner concerning the use or development of the land as specified in the letter of grant of a variance, special exception or approval petition as signed by the Administrator.

(35) *Condominium*: A building, group of buildings, or portion thereof, in which units are owned individually, and the structure, common areas, or facilities are owned by all the owners on a proportional, undivided basis.

(36) *Corner lot*: See "Lot, corner".

(37) *Covenant*: A private legal restriction on the use of land contained in the deed, plat and other legal documents pertaining to the property.

(38) *Covenant, parol*: A verbal, binding agreement, made at a public parol hearing, restricting the use of the land.

(39) *Covered open space*: See "Open space, covered".

(40) *Crown of the street*: The highest point of pavement between the existing curb lines of a street cross-section, most often at the centerline.

(41) *Cul-de-sac*: See "Street, cul-de-sac".

(42) *Curb cut*: The opening along the curb line, exclusive of handicap ramps, at which point vehicles may enter or leave the street. (See Diagram A.)

(43) *Curb line*: A line located on either edge of the pavement, but within the right-of-way line. (See Diagram A.)

(44) *Deck*: A ground-supported, unenclosed, accessory platform structure, usually constructed of wood, of which any permanent horizontal area(s) of the platform is raised eighteen (18) inches or more above grade level designed and intended for the recreational enjoyment of the occupants and guests of the primary structure or use.

(45) *Double dwelling*: Same as "Dwelling, two-family".

(46) *Drip line*: The perimeter of a tree's spread measured to the outermost tips of the branches and extending downward to the ground.

(47) *Driveway*: Access for vehicular movement to egress/ingress between the right-of-way of private or public streets and the required building setback line. (See Diagram A [not included herein].)

(48) *Duplex*: Same as "Dwelling, two-family".

(49) *Dwelling, manufactured home*: A unit which is fabricated in one (1) or more modules at a location other than the home site, by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process. Every module shall bear a label certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards. The unit must have been built after January 1, 1981, have at least nine hundred fifty (950) square feet of main floor area (exclusive of garages, carports, and open porches), and exceed twenty-three (23) feet in width.

(50) *Dwelling, mobile*: A movable or portable unit fabricated in one (1) or more modules at a location other than the home site, by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process. The unit is designed for occupancy by one (1) family, and erected or located as specified by Chapter 8, Article III, Division IV of the Code of Indianapolis and Marion County, and which was either:

- a. Constructed prior to June 15, 1976, and bears a seal attached under Indiana Public Law 135, 1971, certifying that it was built in compliance with the standards established by the Indiana Administrative Building Council; or,
- b. Constructed subsequent to or on June 15, 1976, and bears a seal certifying that it was built in compliance with the Federal Mobile Home Construction and Safety Standards law.

(51) *Dwelling, modular home*: A unit which is fabricated in one (1) or more modules at a location other than the home site, by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process, designed for occupancy by one (1) family unit. Every module shall bear the seal certified that it was built in compliance with Indiana Public Law 360. The unit must have been built in compliance with the CABO One- and Two-Family Dwelling Code.

(52) *Dwelling, multifamily*: See "Dwelling, attached multifamily".

(53) *Dwelling, attached multifamily*: A building for residential purposes with three (3) or more dwelling units, having common or party walls, on a single lot. Each unit is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common or individual stairwell(s) exterior to any dwelling unit(s).

(54) *Dwelling, single-family*: A site-built building for one (1) dwelling unit.

(55) *Dwelling, two-family*: A building designed originally for residential occupancy by two (2) families living independently of each other, which contains two (2), legally complete, dwelling units. Each unit in a two-family dwelling is completely separated from the other by either; a) an unpierced wall extending from ground to roof; or, b) an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

(56) *Dwelling unit*: One (1) or more rooms connected together in a residential building or residential portion of a building, which are arranged, designed, used and intended for use by one (1) or more human beings living together as a family and maintaining a common household for owner occupancy or rental or lease on a weekly, monthly, or longer basis; and which includes lawful cooking, eating, sleeping space and sanitary facilities reserved solely for the occupants thereof.

(57) *Erect*: Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, or any other way of bringing into being or establishing.

(58) *Excavation*: The breaking of ground, except common household gardening, ground care and agricultural activity.

(59) *Family*: One (1) or more human beings related by blood, marriage, adoption, foster care or guardianship together with incidental domestic servants and temporary, noncompensating guests; or, not more than four (4) human beings not so related, occupying a dwelling unit and living as a single housekeeping unit.

(60) *Fence*. A type of structural barrier usually made of posts supporting such items, by way of example, as chain link, wood pickets, lattice-work, and similar items.

(61) *Finished floor area*: That portion of floor area constructed, completed and usable for living purposes with normal living facilities which includes sleeping, dining, cooking, sanitary, or combination thereof. A floor area or portion thereof used only for storage purposes and not equipped with the facilities previously identified shall not be considered finished floor area.

(62) *Floor area*: For one- and two-family dwelling units, the sum of all horizontal surface areas of all floors of all roofed portions of a building enclosed by and within the surrounding exterior walls or roofs, or the centerline(s) of party walls separating such buildings or portions thereof. The floor area of a building shall exclude all areas with a vertical height clearance less than seventy-eight (78) inches, exterior open balconies, and open porches.

For attached or detached multifamily dwelling(s), the sum of all horizontal surface areas of all floors of all roofed portions of all buildings enclosed by and within the surrounding exterior walls or roofs, or the centerline(s) of party walls separating such buildings or portions thereof.

However, this does not include the following:

- a. All areas with a vertical height clearance less than seventy-eight (78) inches;
- b. All exterior open balconies, and open porches;
- c. Floor or basement floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space;
- d. Floor or basement floor area provided for recreational uses, available to occupants of two (2) or more living units within a project; or
- e. Basement floor area provided for storage facilities, allocated to serve individual living units within a project.

(63) *Floor area ratio (FAR)*: The aggregate floor area of all stories of all buildings within the project divided by the land area.

(64) *Front lot line*: See "Lot line, front".

(65) *Front yard*: See "Yard, front".

(66) *Frontage*: The line of contact of a property with the street right-of-way along a lot line which allows unobstructed, direct access to the property.

(67) *Frontage, public street*: The line of contact of abutting property with the public street along the front lot line which allows unobstructed direct access to the property.

(68) *Full control of access*: The condition where the right of the owner(s) or occupant(s) of abutting property(ies), or of other persons, to access said property(ies), including the location and connection with public streets, is controlled by public authority. Full control of access gives preference to through vehicular traffic movement, by providing access connections with selected public streets only, and by prohibiting both crossings at grade and direct driveway connections.

(69) *Game court*: A type of recreation facility which consists of an unpaved or paved, accessory, surface area of ground open and essentially unobstructed to the sky, on the same lot as the primary structure, designed and intended for the playing of a recognized sport as an accessory, recreational activity by the occupants and guests of the primary structure, which may include fencing, screening, nets, goals, or other necessary appurtenances required for the recreational use.

(70) *Garage, residential*: A building accessory to a residential use, or an enclosed area attached or integrated into a residential building, which is primarily designed and intended to be used for the storage of the private vehicle(s) for the occupant(s) of said residence and is not a separate commercial enterprise available to the general public.

(71) *Gazebo*: A roofed, ground-supported, unenclosed, accessory platform structure, usually constructed of wood, stone, brick, or metal designed and intended for the recreational enjoyment of the occupants and guests of the primary structure or use.

(72) *Grade, established street*: The crown elevation of a street pavement level abutting the property as fixed by the appropriate government agency(ies).

(73) *Grade level (adjacent ground elevation)*: The lowest point of elevation of the finished surface of the ground, paving or sidewalk and similar surface improvements within the area between the exterior walls of a primary building or structure and the property line, or when the property line is more than ten (10) feet from said walls, between said walls and a line ten (10) feet away from and paralleling said walls.

(74) *Gross acre*: A horizontal measure of land area equal to forty-three thousand five hundred sixty (43,560) square feet.

(75) *Ground cover*: Low-growing plants less than eighteen (18) inches in height with a spreading growth habit, such as grasses, vines, flowers, or a similar feature.

(76) *Ground floor*: That story which contains finished floor area closest to but not below grade level. In cases in which the only story with finished floor area is below grade level, that story with finished floor area closest to grade level shall be considered the ground floor.

(77) *Group home*: A residential facility for the developmentally disabled (as defined by IC 12-7-2-166) or a residential facility for the mentally ill (as defined in IC 12-7-2-167), licensed by the Community Residential Facilities Council, or its successor in authority in accordance with a program described in:

- a. IC 12-11-1 (residential facility for the developmentally disabled); or
- b. IC 12-22-2-3(2) through 12-22-2-3(6) (residential facility for the mentally ill).

(78) *Handicap ramp*: Same as "Pedestrian ramp".

(79) *Hard-surfaced*: Quality of an outer area being solidly constructed of pavement, brick, paving stone, tile, wood, or a combination thereof.

(80) *Hedge*: A row or rows of closely planted shrubs, bushes, or combination thereof creating a vegetative barrier.

(81) *Height, building*: The vertical distance above a reference line measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the height of the highest gable of a pitched or hipped roof. The reference line shall be selected by either of the following, whichever yields a greater building height:

- a. The elevation of the highest adjoining sidewalk or ground surface within a ten (10) foot horizontal distance from and paralleling the exterior wall of the building or structure when said sidewalk or ground surface is not more than ten (10) feet above lowest grade; or
- b. An elevation ten (10) feet higher than the lowest grade when said sidewalk or ground surface is more than ten (10) feet above the lowest grade.

(82) *Heliport*: An area of land, water or structural surface which is used, or intended for use, for the lawful landing and takeoff of helicopters, and any appurtenant areas which are used, or intended for use for heliport buildings and auxiliary facilities, such as, parking areas, waiting rooms, fueling, storage and maintenance equipment areas.

(83) *Helistop*: An area of land, water or structural surface which is used, or intended for use, for the landing and takeoff of helicopters, without the provision of fueling, repair, maintenance or storage facilities.

(84) *Home occupation*: An occupation or business activity carried on within:

- a. A legally established dwelling unit, or;
- b. An associated accessory structure (in those cases where the business activity is a legally established nonconforming occupation which occupies such associated accessory structure), by a resident of said dwelling, where the occupation or business activity is clearly incidental and subordinate to the residential use and does not alter the character thereof.

(85) *Hospital*: An institution housed in a building, group of buildings or portion thereof, providing primary health services and psychological, medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other physical or mental conditions, and including as an integral part of the institution, related facilities such as laboratories, outpatient or training facilities.

(86) *Hotel*: Any building or group of buildings, containing guest rooms without direct access to the outside, designed or intended to be occupied for sleeping purposes by guests for a fee with general kitchen and dining room facilities provided within the building or an accessory building, and which caters to the travelling public.

(87) *Interior access drive*: A minor, private or public street providing access within the boundaries of a project beginning at the required setback line. (See Diagram A [not included herein].)

(88) *Interior access driveway*: Access for vehicular movement to egress/ingress between interior access drives connecting two (2) or more projects or land parcels. (See Diagram A.)

(89) *Land area*: The total horizontal area within the project boundaries, plus the area of half of any abutting alley or street rights-of-way.

(90) *Landscaping*: Any combination of sculpture, fountains, pools, and walkways with substantial living vegetation, such as trees, shrubs, ground cover, thickets with grasses planted, preserved, transplanted, maintained and groomed to develop, articulate and enhance the aesthetic quality of the area as well as provide erosion, drainage and wind control.

(91) *Legally established nonconforming building or structure*: Any continuous, lawfully established building or structure erected or constructed prior to the time of adoption, revision or amendment, or granted variance of the zoning ordinance, but which fails, by reason of such adoption, revision, amendment or variance, to conform to the present requirements of the zoning district.

(92) *Legally established nonconforming use*: Any continuous, lawful land use having commenced prior to the time of adoption, revision or amendment of a zoning ordinance, but which fails, by reason of such adoption, revision, amendment, or variance to conform to the present requirements of the zoning district.

(93) *Livability space*: The open space minus the vehicle area within the open space.

(94) *Livability space ratio (LSR)*: The livability space divided by the floor area.

(95) *Local street*: See "Street, local".

(96) *Lot*: A piece, parcel, plot or tract of land designated by its owner or developer to be used, developed or built upon as a unit under single ownership or control and occupied or intended for occupancy by a use permitted in the zoning ordinances for Marion County, Indiana, including one (1) or more main buildings, accessory uses thereto and the required yards as provided for the zoning ordinances of Marion County, Indiana and may consist of:

- a. A single lot of record; or
- b. A portion of a lot of record; or
- c. A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record.

A lot may or may not coincide with a lot of record. For purpose of this definition, the ownership of a lot is further defined to include:

- a. The person(s) who holds either fee simple title to the property or is a life tenant as disclosed in the records of the township assessor;
- b. A contract vendee;
- c. A long-term lessee (but only if the lease is recorded among the records of the County Recorder and has at least twenty-five (25) years remaining before its expiration at the time of applying for a permit). (See Diagram C.)

(97) *Lot area*: The area of a horizontal plane bounded on all sides by the front, rear, and side lot lines that is available for use or development and does not include any area lying within the right-of-way of any public or private street or easement for surface access ingress or egress into the subject lot or adjoining lots.

(98) *Lot, corner*: A lot abutting upon two (2) or more streets at their intersections, or upon two (2) parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees. (See Diagram C.)

(99) *Lot, through*: A lot which fronts upon two (2) parallel streets, or which fronts upon two (2) streets which do not intersect at the boundaries of the lot. (See Diagram C.)

(100) *Lot line*: The legal boundary of a lot as recorded in the Office of the Marion County Recorder.

(101) *Lot line, front*: The lot line(s) separating the lot from street rights-of-way; in the case of a corner lot, both lot lines separating the lot from the street rights-of-way shall be considered front lot lines; or, in the case of a through lot, the lot line which most closely parallels the primary entrance of the primary structure shall be considered the front lot line. (See Diagram B.)

(102) *Lot line, rear*: A lot line which is opposite and most distant from the front lot line, or in the case of a triangularly shaped lot, a line ten (10) feet in length with the lot, parallel to and at the maximum distance from the front lot line. However, in the case of a corner lot line, any lot line which intersects with a front lot line shall not be considered a rear lot line.

(103) *Lot line, side*: Any lot line not designated as a front or rear lot line.

(104) *Lot of record*: A lot which is part of a subdivision or a lot or a parcel described by metes and bounds, the description of which has been so recorded in the Office of the Recorder of Marion County, Indiana. A lot of record is not necessarily a piece, parcel, plot or tract designated or used for single ownership.

(105) *Main floor area*: The area of a horizontal plane fully bound by the exterior walls of the primary building or structure of the floor surface at or above grade level exclusive of vent shafts, decks, garages, uncovered or covered open space.

(106) *Major livability space*: The total area in a project provided for outdoor recreation, relaxation, amusement, pleasure and for similar use within the project, which area may or may not be improved; however, all livability space countable for purposes of computing the major livability space ratio shall be at least twenty (20) feet away from any ground floor residential wall containing one (1) or more windows and shall have a minimum linear dimension averaging eighty (80) feet, except that an area of lesser dimension is countable if:

- a. The total required major livability space is less than six thousand four hundred (6,400) square feet, or
- b. The shape or topography of the site alone prevents compliance with the minimum dimensions.

(107) *Major livability space ratio (MLSR)*: The total major livability space of countable size divided by the aggregate floor area.

(108) *Manufactured home*: See "Dwelling, manufactured home".

(109) *Marginal access street*: See "Street, marginal access".

(110) *Mini-barn*: A freestanding, completely enclosed, accessory building constructed of stone, brick, metal or wood designed with a rural character and intended for the storage of personal property solely of the occupants of the primary use on the lot. (See also "Shed".)



(111) *Minor emergency repairs*: Those maintenance repairs necessitating immediate solution yet not posing an immediate life safety hazard, nor altering the existing character of the structure (See "Alteration").

(112) *Mobile dwelling*: See "Dwelling, mobile".

(113) *Mobile dwelling project*: See "Project, mobile dwelling".

(114) *Modular home*: See "Dwelling, modular home".

(115) *Motel*: Any building or group of buildings, containing guest rooms, with at least twenty-five (25) percent of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building(s), designed or intended to be occupied for sleeping purposes by guests for a fee and where general kitchen and dining room facilities may be provided within the building or an accessory building, and which caters to the travelling public.

(116) *Mulch*: A protective covering of vegetative substances placed around plants to prevent evaporation of moisture, freezing, and to control weeds.

(117) *Multifamily dwelling*: See "Dwelling, multifamily".

(118) *Off-street*: A location completely on private land, and completely off of public rights-of-way, alleys and any interior surface access easement for ingress and egress.

(119) *Open porch*: An unenclosed structure, open to the sky, supported from the ground and attached to or a part of a building at the area of entrance or exit to said building facilitating access to said building from the ground.

(120) *Open space*: The total horizontal area of all uncovered open space plus one-half ( 1/2) of the total horizontal area of all covered open space.

(121) *Open space, covered*: All exterior space within the project, which is open and exposed to the weather, but not open above to the sky. It includes porches, carports, covered exterior balconies and exterior spaces covered by portions of buildings.

(122) *Open space, uncovered*: In D-6, D-6II, D-7, D-8, D-9, D-10 and D-11 districts: the land area, minus the building area, plus the usable roof area. In D-A, D-S, D-1, D-2, D-3, D-4, D-5, D-5II and D-12 districts; and D-8 single- and two-family dwellings: the lot area, minus the building area.

(123) *Open space ratio (OSR)*: The open space divided by the floor area.

(124) *Parking are.* An area of paving other than an open exhibition or display area, not inclusive of interior access drives, driveways, interior access driveways and access drives intended for the temporary storage of automotive vehicles including parking spaces and the area of access for the egress/ingress of automotive vehicles to and from the actual parking space. (See Diagram A [not included herein].)

(125) *Parking space*: An off-street portion of the parking area, which shall be used only for the temporary placement of an operable vehicle. (See Diagram A [not included herein].)

(126) *Part-time*: A period of at least twenty-five (25) percent less than a regular or customarily full schedule of a specific activity, such as employment.

(127) *Partial control of access*: The condition where the right of the owner(s) or occupant(s) of abutting property(ies), or of other persons, to access said property(ies), including the location and connection with public streets, is controlled by public authority. Partial control of access gives preference to through vehicular traffic movement to a degree that, in addition to access connections with selected public streets, there may be crossings at grade and some driveway connections.

(128) *Patio*: A hard-surfaced area accessory to the primary structure or use of which the horizontal area is at grade level with at least one (1) side open to the weather and essentially unobstructed to the sky. This area is specifically designed and intended for the recreational enjoyment of the occupants and guests of the primary structure or use and not designed or intended for use by automotive vehicles. (See also "Deck.")

(129) *Patio, covered*: A hard-surfaced area accessory to the primary structure or use of which the horizontal area is at grade level with at least one (1) side open to the weather and permanently roofed or similarly covered. This area is specifically designed and intended for the recreational enjoyment of the occupants and guests of the primary structure or use and not designed or intended for use by automotive vehicles.

(130) *Paved-stand*: A permanent area specifically designed and intended for the location, securing, and use of a mobile dwelling on a non-temporary basis encompassing completely the area immediately below or covered by such dwelling including necessary plumbing, power, and other utility installations. The mobile dwelling's foundation, consisting of runners, ribbons or piers, usually made of concrete for the purpose of blocking the dwelling, are within this area.

(131) *Pavement*: A layer of concrete, asphalt or coated macadam used on street, sidewalk, or airport surfacing.

(132) *Paving*: See "Pavement".

(133) *Pedestrian ramp*: An inclined access opening along the curbline at which point pedestrians, unassisted or assisted by a wheelchair, walker or similar feature, may enter or leave the street; or, an incline providing pedestrians, unassisted or assisted by a wheelchair, walker or similar feature, access from the ground to an elevated surface.

(134) *Perimeter yard*: See "Yard, perimeter".

(135) *Permitted use*: Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

(136) *Plat*: An officially recorded map, as recorded in the Office of the Marion County Recorder, or a map intended to be recorded indicating the subdivision of land including, but not limited to, boundaries and locations of individual properties, streets, and easements.

(137) *Porch*: A roofed structure with at least one (1) side exposed to the weather, supported from the ground and attached to or part of a building at the area of entrance or exit to said building.

(138) *Porte-cochere*: A roofed, sheltering structure supported from the ground and attached to or a part of a building, which projects over an entrance/exit, walkway, driveway, or similar feature.

(139) *Primary building*: The building in which the permitted primary use of the lot is conducted.

(140) *Principal homestead*: The dwelling unit in which the primary users of the agricultural enterprise reside.

(141) *Project*: A lot or parcel of contiguous land to be developed for a use or uses permitted in the D-6, D-6II, D-7, D-8, D-9, D-10, D-11 dwelling districts, which at the time of development is under one (1) ownership or control, and subsequently may be subdivided, developed, or conveyed into smaller lots or parcels.

(142) *Project boundaries*: The perimeter lot lines encompassing the entire project as indicated in the Office of the Marion County Recorder.

(143) *Project, mobile dwelling*: An area of contiguous land separated only by a street(s) upon which three (3) or more mobile dwellings are designated spaces or lots for the purpose of being occupied as primary residences and includes all real and personal property used in the operation of said mobile dwelling project or, an area of contiguous land separated only by a street, that is subdivided and contains individual lots which are or intended to be sold, leased or similarly contracted for the purpose of being occupied as a primary residence, is a mobile dwelling project if three (3) or more lots or sites are designated specifically to accommodate mobile dwellings.

(144) *Public street frontage*: See "Frontage, public street".

(145) *Rear yard*: See "Yard, rear".

(146) *Recreation facility*: A place, area or structure designed and equipped for the conduct of sport, leisure time activities and other customary and usual recreational activities.

(147) *Recreation facility, commercial:* A recreation facility operated as a for profit business and open to the public for a fee.

(148) *Recreation facility, personal:* A recreation facility provided as an accessory use on the same lot as the principal permitted use and designed to be used primarily by the occupants of the principal use and their guests without a fee.

(149) *Recreation facility, private:* A recreation facility operated by a nonprofit organization, and open only to bona fide members and guests of such nonprofit organization.

(150) *Recreation facility, public:* A recreation facility operated by a governmental agency and open to the general public.

(151) *Recreational vehicle:* A vehicle, which may be motorized, non-motorized, self-propelled or towed, designed and intended specifically for non-commercial use, such as temporary living, travel, and leisure activities, including the trailer that may transport the vehicle. Examples include but not limited to boats, jet skis, race cars, all-terrain bikes, motor homes, travel trailers, and camping trailers.

(152) *Religious use:* A land use and all buildings and structures associated therewith devoted primarily to the purpose of divine worship together with reasonably related accessory uses, which are subordinate to and commonly associated with the primary use, which may include but are not limited to, educational, instructional, social or residential uses.

(153) *Residential in character:* Possessing the architectural features, traits and qualities indicating or constituting those distinguishing attributes of a residence, such as height, bulk, materials, detailing and similar features.

(154) *Right-of-way:* Specific and particularly described land, property, or interest therein devoted to and subject to the lawful use, typically as a thoroughfare of passage of pedestrians, vehicles, or utilities, as officially recorded by the Office of the Marion County Recorder.

(155) *Right-of-way, public:* Specific and particularly described strip of land, property, or interest therein dedicated to and accepted by the municipality to be devoted to and subject to use by the general public for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, as officially recorded by the Office of the Marion County Recorder.

(156) *Right-of-way, private:* Specific and particularly described strip of privately held land devoted to and subject to use for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for such purposes, as officially recorded by the Office of the Marion County Recorder.

(157) *Setback:* The minimum horizontal distance established by ordinance between a proposed right-of-way line or a lot line and the setback line. (See Diagram B [not included herein].)

(158) *Setback line:* A line that establishes the minimum distance a building, structure, or portion thereof, can be located from a lot line or proposed right-of-way line. (See Diagram B [not included herein].)

(159) *Shed:* A freestanding, completely enclosed, accessory building, designed and intended for the storage of personal property solely of the occupants of the primary use on the lot. (See also "Mini-barn".)

(160) *Shrub:* A woody plant of relatively low height branching from the base not exceeding ten (10) to twelve (12) feet in height.

(161) *Side yard:* See "Yard, side".

(162) *Sidewalk:* A hard-surfaced walk or raised path along and paralleling the side of the street for pedestrians.

(163) *Single-family dwelling:* See "Dwelling, single-family".

(164) *Skirting:* The rigid physical attachments to a mobile dwelling designed and intended to completely screen, shelter, and protect the unit's base and entire area between the unit's floor surface

and the ground surface, which includes, but not limited to, all electrical and plumbing conduits, insulation material, and undercarriage.

(165) *Site plan*: The development plan, drawn to scale, for one (1) or more lots on which is shown the existing and proposed location and conditions of the lot as required by ordinance, in order that an informed decision can be made by the approving authority.

(166) *Storage area*: An area designated, designed and intended for the purpose of reserving personal property for a future use and distinguished from areas used for the display of property intended to be sold or leased.

(167) *Storage room*: An enclosed area integrated into and sharing common or party wall or walls within a primary building, while designed and intended for the purpose of reserving personal property for a future use.

(168) *Story*: That part of a building, with an open height of no less than seventy-eight (78) inches, except a mezzanine, included between the upper surface of one (1) floor and the lower surface of the next floor, or if there is no floor above, then the ceiling next above. A basement shall constitute a story only if it provides finished floor area.

(169) *Street, collector*: A street primarily designed and intended to carry vehicular traffic movement at moderate speeds (e.g., thirty-five (35) mph) between local streets, collectors, and arterials with direct access to abutting property(ies). (See Diagram D [not included herein].)

(170) *Street, cul-de-sac*: A street having only one (1) open end and being permanently terminated by a vehicle turn around. (See Diagram D [not included herein].)

(171) *Street, expressway*: A street so designated by The Official Thoroughfare Plan for Marion County, as amended, primarily designed and intended to carry and channelize high volumes of vehicular traffic movement at relatively high speeds (e.g., forty-five (45) mph) with partial control of access. The function of an expressway is primarily to move traffic rather than to serve abutting property(ies). Access control on an expressway is characterized by medians, marginal access streets and selective intersection location.

(172) *Street, freeway*: A street so designated by The Official Thoroughfare Plan for Marion County, as amended, primarily designed and intended to carry and channelize high volumes of vehicular traffic movement at high speeds (e.g., fifty-five (55) mph) with full control of access. The primary function of a freeway is the movement of traffic, particularly long trips made within or through the county.

(173) *Street, local*: A street primarily designed and intended to carry low volumes of vehicular traffic movement at low speeds (e.g., twenty (20) to thirty (30) mph) within the immediate geographic area with direct access to abutting property(ies). (See Diagram D [not included herein].)

(174) *Street, marginal access*: A local street with control of access auxiliary to and located on the side of an arterial, thoroughfare, expressway, or freeway for service to abutting property(ies). (See Diagram D [not included herein].)

(175) *Street, parkway*: Any street serving through vehicular traffic and equal to or more than five thousand two hundred eighty (5,280) feet in length, with partial control of access thereto, the adjoining land on one (1) or both sides of which is predominantly dedicated or used for park purposes, and shall conform to the comprehensive plan and thoroughfare plan. Partial control of access to a parkway permits access connections only at street intersections.

(176) *Street, primary arterial*: A street so designated by The Official Thoroughfare Plan for Marion County, as amended, primarily designed and intended to expedite and channelize high volumes of vehicular traffic movement at moderate speeds (e.g., thirty-five (35) to forty-five (45) mph) between arterials, expressways, and freeways with partial control of access. The function of a primary arterial is primarily to move traffic rather than to serve abutting property(ies).

(177) *Street, private*: A privately held right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for said purposes. A private street may be comprised of pavement, shoulders, curbs, sidewalks, parking space, and similar features.

(178) *Street, public*: A publicly dedicated, accepted and maintained right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a public right-of-way for said purposes. A public street may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking space, and similar features.

(179) *Street, secondary arterial*: A street so designated by The Official Thoroughfare Plan for Marion County, as amended, primarily designed and intended to expedite medium to high volumes of vehicular traffic movement at moderate speeds (e.g., thirty-five (35) to forty-five (45) mph) between collectors, arterials, expressways, freeways, and abutting property(ies) with partial control of access. Secondary arterials carry a higher percentage of short trips than do primary arterials.

(180) *Structural barrier*: A physical structure, such as a fence, wall, or railing, that forms a boundary of, or enclosure to, a property or acts as a division between properties.

(181) *Structure*: A combination or manipulation of materials to form a construction, erection, alteration or affixation for use, occupancy, or ornamentation, whether located or installed on, above, or below the surface of land or water.

(182) *Subdivision*: The division of any parcel of land shown as a unit, as part of a unit or as contiguous units, on the last preceding transfer of ownership thereof, into two (2) or more parcels or lots, for the purpose, whether immediate or future, of transfer of ownership or building development, provided however, that the division of land into parcels of more than three (3) acres, not involving any new streets or easements of access, and the transfer or exchange of parcels between adjoining landowners, if such transfer or exchange does not create additional building lots, shall not constitute a subdivision for purposes of this ordinance.

(183) *Temporary use*: An impermanent land use established for a limited and fixed period of time with the intent to discontinue such use upon the expiration of the time period.

(184) *Terrace*: An open, raised bank or banks of earth having vertical or sloping side(s) and a horizontal top.

(185) *Thoroughfare*: A street primarily serving thorough vehicular traffic, including freeways, expressways, primary thoroughfares, and secondary thoroughfares as designated by the thoroughfare plan.

(186) *Thoroughfare plan*: The applicable segment of the comprehensive or master plan for Marion County, Indiana, adopted by the Metropolitan Development Commission of Marion County, Indiana, pursuant to Chapter 283 of the Acts of the Indiana General Assembly for 1955, and all acts amendatory thereto, which sets forth the location, alignment, dimensions, identification and classification of freeways, expressways, parkways, primary thoroughfares, secondary thoroughfares, or other public ways as a plan for the development, redevelopment, improvement, and extension and revision thereof.

(187) *Through lot*: See "Lot, through".

(188) *Total car ratio (TCR)*: The total number of parking spaces divided by the number of dwelling units.

(189) *Total floor area*: The aggregate floor area of all stories of the primary buildings or structures.

(190) *Trash enclosure*: An accessory structure enclosed on all sides, possessing a solid, securable door or gate for access designed and intended to completely screen and protect waste receptacles from view on all sides, and to prevent waste debris from dispersal outside the receptacles or enclosure.

(191) *Tree survey*: An inventory of all trees on a lot or project prior to any site development preparation, identifying species, location, caliper, and drip line of trees.

(192) *Two-family dwelling*: See "Dwelling, two-family".

(193) *Uncovered open space*: In D-6, D-6II, D-7, D-8, D-9, D-10, D-11 and D-12 districts: the land area, minus the building area, plus the usable roof area. In D-A, D-S, D-1, D-2, D-3, D-4, D-5, D-5II, D-8, and D-12 districts: the lot area, minus the building area.

(194) *Underground storeroom*: An accessory structure which is at least seventy-five (75) percent subterranean, utilized for storage of personal property or a temporary shelter for people, such as a fallout shelter.

(195) *Unit*: A single, complete entity.

(196) *Usable roof area*: The total roof area, within the project or residential buildings, garages and accessory buildings which has been improved for outdoor uses of occupants. Roof areas used for the storage of automotive vehicles are included.

(197) *Vehicle area*: Uncovered or covered area used for vehicular traffic, maneuvering and parking. Included are all parking areas, driveways, interior access drives and rights-of-way of all streets and alleys within the project, plus the area of half of any abutting alley or street rights-of-way.

(198) *Walkway*: A hard-surfaced walk or raised path for pedestrians.

(199) *Yard, front*: An open space unobstructed to the sky, extending fully across the lot while situated between the front lot line and a line parallel thereto, which passes through the nearest point of any building or structure and terminates at the intersection of any side lot line. (See Diagram B [not included herein].)

(200) *Yard, interior*: An open space unobstructed to the sky, extending fully across the mobile dwelling site while situated between the edge of pavement of the street or interior access drive and a line paralleling thereto, which passes through the nearest point of any building or structure and terminates at the intersection of the individual mobile dwelling site's boundary lines.

(201) *Yard, perimeter*: A required yard of a project, in addition to front, rear and side yards, situated between and extending along the project boundary and an interior line paralleling thereto. The width of said yard shall be determined by the applicable zoning district zoning classification of the ordinance. (See Diagram E [not included herein].)

(201) *Yard, rear*: An open space unobstructed to the sky extending fully across the lot situated between the rear lot line and a parallel thereto which passes through the nearest point of any building or structure and terminates at the intersection of any side lot line. (See Diagram B [not included herein].)

(202) *Yard, side*: An open space unobstructed to the sky extending the length of the lot situated between a side lot line and a line parallel thereto which passes through the nearest point of any building or structure and terminates at the point of contact with any rear or front yards or any lot line, whichever occurs first. (See Diagram B [not included herein].)

SECTION 3. Chapter 731, Article II, Section 200 (a)(4) of the "Revised Code of the Consolidated City and County," regarding the setbacks within the Town of Meridian Hills, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 731-200. General dwelling district regulations.**

The following regulations shall apply to all land within the dwelling districts.

(a) After the effective date of this ordinance:

- (1) With the exception of legally established nonconforming uses, no land, building, structure, premises or part thereof shall be used or occupied except in conformity with these regulations and for uses permitted by this ordinance. Signs, however, are regulated by Chapter 734 of this Code.
- (2) A lot may be divided into two (2) or more lots, provided that all resulting lots and all buildings thereon shall comply with all of the applicable provisions of the Dwelling Districts Zoning Ordinance of Marion County. If such a lot, however, is occupied by a

nonconforming building, such lot may be subdivided provided such subdivision does not create a new noncompliance or increase the degree of noncompliance of such building.

- (3) No building, structure, premises or part thereof shall be constructed, erected, converted, enlarged, extended, reconstructed or relocated except in conformity with these regulations and for uses permitted by this ordinance with the exception of signs, which are regulated by Chapter 734 of this Code, and of the following provisions:
  - a. Restoration of legally established nonconforming uses, structures, buildings. Legally established nonconforming uses and structures or buildings may be restored to their original dimensions and conditions if damaged or partially destroyed by fire or other disaster provided the damage or destruction does not exceed two-thirds ( $\frac{2}{3}$ ) of the gross floor area of the building, structure or facilities affected; except, however, all land within any flood control district shall, also, be subject to the requirements of section 735-300 through section 735-310 of this Code.
  - b. Discontinuation of nonconformity. The lawful nonconforming use or occupancy of any lot, in a dwelling district, existing at the time of the effective date of this ordinance, may be continued as a nonconforming use, but if such nonconforming use is discontinued for one (1) year, any future use or occupancy of said land shall be in conformity with the provisions of this ordinance.
  - c. Legally established nonconforming uses; public schools. Any legally established nonconforming use public elementary, middle, junior high or high school (including any structures, facilities and parking areas accessory thereto) may be converted, enlarged, extended, reconstructed or relocated for such public school use on the same lot or parcel as it existed on August 8, 1966, provided such school building, structure, facilities and parking area shall conform to the minimum yard and setback requirements of the applicable dwelling district.
  - d. Yard setback exceptions:
    1. Established front setback exception/averaging. In any block in which an existing front yard depth and setback is established (by existing legally established buildings within a Dwelling District) for more than twenty-five (25) percent of the linear frontage of the block (or a distance of two hundred (200) linear feet in either direction, whichever is the lesser), the minimum required front yard depth and setback for any new building or structure shall be the average of such established front yards if such dimension is less than the minimum required minimum front setback established by this ordinance.
    2. Expansion along an existing, legally established nonconforming front setback line. The minimum required front setback in any Dwelling District for any existing building, having a legally established front setback which is less than the required setback of the district, shall be modified to permit expansion of such building along its existing established front setback, provided that:
      - i. Only a one-time expansion along the legally established nonconforming front setback line shall be permitted; and
      - ii. The linear front footage of expansion does not exceed fifty (50) percent of the linear front footage of the original building, and all other requirements of this ordinance are maintained for the expansion. Provided: For both 1. and 2. above, however, in no case shall a building or structure:
        1. Encroach upon any proposed right-of-way, as determined by the Official Thoroughfare Plan of Marion County, Indiana;
        2. Encroach upon any existing right-of-way; or
        3. Encroach into a clear sight triangular areas, as required in section 731-221(c)(1).
    3. Side and rear yard setback exceptions. The minimum side and rear yard setback requirements of the D-S, D-1, D-2, D-3, D-4, D-5, D-5II, and D-8 (for

a lot containing a single or a two-family dwelling unit) Districts shall be subject to the following:

- i. Primary buildings: The primary building may be enlarged or extended along a legally established nonconforming side yard between the established front setback line and the established rear setback line of the primary building provided that the linear footage of such enlargement or extension: a. does not exceed fifty (50) percent of the linear footage of the primary building along that side setback line, or b. be a one-time only expansion along the legally established setback line.
  - ii. Detached accessory buildings.
    1. Legally established, detached, accessory garages may be reconstructed on an existing foundation, even though such reconstruction would not comply with required side or rear yards.
    2. An accessory building may be enlarged or extended along a legally established nonconforming side or rear yard provided that the linear footage of such enlargement or extension: a. does not exceed fifty (50) percent of the linear footage of the accessory building along that side or rear setback line; b. be a one-time only expansion along the legally established setback line; and, c. such enlargement or extension shall not encroach into any required yard other than the existing nonconforming side or rear yard along which the enlargement or extension is occurring.
  - e. Lot area, lot width exception. Any lot recorded or any platted lot recorded prior to the adoption of this ordinance, having less than the minimum lot area or minimum lot width required by the applicable dwelling district regulations of this ordinance for a single-family dwelling, shall be deemed an exception to such minimum lot area and lot width requirement, and a single-family dwelling may be constructed thereon provided all other requirements of this ordinance, including minimum yard and setback requirements, shall be maintained.
  - f. Reserved.
  - g. D-6 and D-6II district single-family exception. In the D-6 and D-6II districts, a single- or two-family dwelling, including accessory structures, may be constructed, erected, enlarged, extended, or reconstructed on any platted lot recorded prior to the adoption of this ordinance which was specifically platted for single-family dwelling purposes. Such development shall be in accordance with the approved plat, any restrictions thereof, and any commitments resulting from the rezoning of such lot.
- (4) The front, side and rear setback and minimum front, side and rear yard requirements of all dwelling zoning districts shall be subject to the following exception for all land within the Town of Meridian Hills, Indiana: The required front, side and rear setback and minimum front, side and rear yard requirements applicable to all land within the Town of Meridian Hills, Indiana, however presently zoned, shall be not less than the standards of the class R-1, R-2, and R-3 area districts, respectively, previously applicable thereto as said land was formerly zoned, in accordance with the Meridian Hills Zone Map and section 12 of the Zoning Ordinance of the Town of Meridian Hills, Indiana, General Ordinance No. 1, 1946, prior to the effective date of the comprehensive Dwelling Districts Zoning Ordinance of Marion County, Indiana, Ordinance 66-AO-2, which rezoned and reclassified said land. (Said Zoning Ordinance of the Town of Meridian Hills, Indiana, section 12 and Meridian Hills Zone Map, adopted by the Marion County Council March 28, 1957, as a part of Marion County Council Ordinance No. 8-1957, are hereby incorporated herein by reference).
- (5) Secondary means of escape. Any secondary means of escape which includes, but is not limited to, fire escapes or similar emergency accesses, shall be located on the rear or side facades of the building or structure. In the case of a building or structure located on a corner lot, the secondary means of escape shall not be located on the facade of any building or structure which has frontage along a public or private street.



- (6) Side yard setback; zero (0) lot line option. The minimum side yard setback requirements of the D-S, D-1, D-2, D-3, D-4, D-5, and D-5II zoning districts shall be subject to the following exceptions: Any plat of a subdivision submitted for plat approval in accordance with the Subdivision Control Ordinance of Marion County, Indiana, subsequent to the effective date of this ordinance, may reduce the minimum side yard requirement for one (1) side yard of each lot to zero (0) feet provided that:
- a. A minimum distance of ten (10) feet shall be required and maintained between all buildings on adjacent lots; and,
  - b. No windows or doors shall be provided or maintained on that portion of the structure which reduces the required side yard by use of this exception; and,
  - c. The aggregate side yard(s) is provided on the lot according to the applicable dwelling district regulations; and,
  - d. An easement, providing for the continual maintenance of that portion of the structure which reduces the required side yard by use of this exception, is provided, recorded and maintained.
- (7) Exceptions to dwelling district development standards for the development of cluster subdivisions. In any plat of a subdivision recorded after January 1, 1990, in the D-S, D-1, D-2, D-3 and D-4 zoning districts the following exceptions shall apply. Any subdivision, the plat of which is submitted for plat approval in accordance with the Subdivision Control Ordinance of Marion County, Indiana, may be developed as a cluster subdivision in accordance with the following:
- a. Purpose. Cluster subdivisions are intended to allow greater flexibility in design and development of subdivisions, in order to produce innovative residential environments, provide for more efficient use of land, protect topographical features, and permit common area and open space. To accomplish this purpose, the following regulations and exceptions shall apply only to cluster subdivisions.
  - b. Exceptions to dwelling district development standards. Exceptions to the development standards relating to the subdivision's lot size, shape and dimensions may be permitted for individual lots within a cluster subdivision, as follows:
    1. Project area (minimum size of subdivision). There shall be a minimum of five (5) acres required for the development of a cluster subdivision. The tract of land to be developed shall be in one (1) ownership or shall be the subject of an application filed by the owners of the entire tract. The tract shall be developed as a unit and in the manner approved.
    2. Project density. The overall maximum density of the proposed cluster subdivision shall remain the same as that permitted by developing the same site area into developable lots in full compliance with the applicable underlying dwelling district regulations and the Subdivision Control Ordinance of Marion County, Indiana.
    3. Sewers. Attachment to public or semipublic water and sanitary sewer facilities shall be mandatory for development in any cluster subdivision with a minimum lot area of less than twenty-four thousand (24,000) square feet.
    4. Area, width, setback, and open space for individual lots. Individual lots in a cluster subdivision are exempt from the following development standards of the applicable dwelling district:
      - i. Minimum lot area.
      - ii. Minimum lot width.
      - iii. Minimum lot width at setback.
      - iv. Minimum side and rear yard setback regulations. Minimum side and rear yard setback regulations may be modified by the following:
        - Setback from any subdivision boundary property lines: Twenty (20) feet.
        - The minimum rear yard setback: Fifteen (15) feet.

- The minimum side yard setback shall have a minimum depth in accordance with section 731-200(a)(6), Side yard setback; zero (0) lot line option, with the exception that provision 200 (a)(6)c. shall not apply when utilizing the cluster subdivision exception.
    - v. The minimum street frontage. Minimum street frontage may be reduced to fifteen (15) feet provided, however, that each individual lot shall have direct access to a public street, and,
    - vi. Minimum open space. Individual cluster lots shall have a minimum open space of fifty (50) percent.
  - 5. Project open space. The amount of permanent open space created by the development of the site as a cluster subdivision shall be equivalent to, or more than, the total reduction in lot sizes. At least seventy-five (75) percent of the total amount of open space shall consist of tracts of land at least fifty (50) feet wide. The open space created by the development of the site as a cluster subdivision shall be provided in such a manner that it is preserved in its naturally occurring state for passive recreational activities. A subordinate amount of this open space may be developed as a common recreational area. The open space created by the development of the site as a cluster subdivision shall further be provided in such a manner that it is accessible to residents of the subdivision and for maintenance. The open space shall perpetually run with the subdivision and shall not be developed or separated from the cluster subdivision at a later date. Provisions shall be made for continuous and adequate maintenance at a reasonable and nondiscriminatory rate of charge.
- c. Procedures for cluster subdivision approval.
1. The petitioner shall submit two (2) site plans for the property proposed for a cluster subdivision for review and conceptual design approval by the Administrator prior to filing for plat approval.
    - i. Site plan 1 shall depict the development of the site in full compliance with all use and development standards of the applicable underlying dwelling district and the Subdivision Control Ordinance of Marion County, Indiana. This site plan will be used to determine the maximum number of developable lots possible on the site and set the density of that development.
    - ii. Site plan 2 shall depict the development of the site as a proposed cluster subdivision. The density of the overall development shall be no greater than that permitted by the development of the site depicted in site plan 1.
  2. The Administrator shall compare the proposed cluster subdivision with the site plan showing the same site developed in compliance with the applicable dwelling district and determine the appropriateness of cluster design for the site.
  3. In determining the appropriateness of cluster design for the site, the Administrator shall look for the following attributes:
    - i. Protection of unique topographical features on the site, including but not limited to slopes, streams, natural water features.
    - ii. Protection and preservation of wooded areas, individual trees of significant size, wetlands, or other environmentally sensitive features.
    - iii. Development of common open space and recreational areas accessible to residents of the subdivision including provisions for walkways and bikeways.
    - iv. Providing a more efficient use of the land.
    - v. Producing innovative residential environments.

- vi. Minimizing the alteration of the natural site features to be preserved through the design and situation of individual lots, streets, and buildings.
  - vii. Diversity and originality in lot layout and individual building design shall be encouraged to achieve the best possible relationship between development and the land.
  - viii. Relationship to surrounding properties, improvement of the view from and of buildings, and minimizing of the land area devoted to motor vehicle access shall be encouraged through the arrangement and situation of individual lots, buildings, and units.
- 4. The Administrator shall further review the proposed cluster subdivision to ensure that the proposed cluster development will be constructed, arranged, and operated so as not to interfere with the development and use of neighboring property, in accordance with the applicable district regulations, to include any necessary transition along the perimeter of the development with adjacent single-family zoning districts.
  - 5. If upon review, the Administrator, based upon the attributes noted above, determines that the proposed cluster subdivision is not appropriate for the site, the Administrator shall inform the petitioner in writing of the determination. The petitioner may, within five (5) business days, appeal the Administrator's decision by filing an approval petition before the Metropolitan Development Commission.
  - 6. If upon review the Administrator, based upon the attributes noted above, determines that the proposed cluster subdivision is appropriate for the site, the Administrator shall:
    - 1. inform the petitioner in writing of the determination; and,
    - 2. send a copy of that letter to the applicable registered neighborhood organizations.

The petitioner may then proceed with the filing of a preliminary plat before the Plat Committee. The filed plat shall be in substantial compliance with the proposed plat approved by the Administrator. The legal notice for the public hearing of the Plat Committee regarding such a preliminary plat shall indicate clearly that the request is for a cluster subdivision.
- d. Maintenance of common open space areas. As a condition of Administrator's approval of the cluster subdivision permitting exceptions to the standard requirements of the applicable zoning district, the petitioner shall submit with the site plan for review and approval documentary assurances that permanent dedication of the open space areas shall be made and that adequate provision(s) is being made for continuous and adequate maintenance of project open space, common areas and recreation areas. Once approved by the Administrator, the documentary assurances shall be filed with the Plat Committee at the time a petition for plat approval is initiated. Further, the documentary assurances shall be incorporated in the plat that is recorded with the Office of the Marion County Recorder. No exceptions to these requirements shall be permitted unless the Plat Committee determines that the petitioner has adequately provided for such upkeep, protection and maintenance of open space, common area or recreational areas through other legally binding perpetual agreements.
- (8) Requirement for group homes for the mentally ill. In any Dwelling District, a group home (as defined in section 731-102) for the mentally ill shall be excluded from a residential area if the group home is located within three thousand (3,000) feet of another group home for the mentally ill, as measured between lot lines.
  - (9) Legal establishment of nonconforming uses that were not legally initiated prior to April 8, 1969.
    - a. A nonconforming use in a district of the Dwelling District Zoning Ordinance (as adopted by the Metropolitan Development Commission under docket number 66-

AO-2) shall be deemed to be legally established (relative to both use and development standards) if the use:

1. Existed prior to April 8, 1969; and
2. Has continued to exist from April 8, 1969, to the present; and
3. Has not been abandoned; and
4. Of the entire building has not been vacant voluntarily for any period of three hundred sixty-five (365) consecutive days.

A certificate stating the use and development of a property are legally established under this section shall be available from the Administrator on the presentation of sufficient evidence. The Rules of Procedure of the Metropolitan Development Commission shall outline the procedure to be followed in order to obtain an official certificate.

b. Any construction, erection, conversion (including, but not limited to the addition of dwelling units), enlargement, extension, reconstruction or relocation occurring after April 8, 1969, have been done in conformity with these regulations and have been done for uses permitted by this ordinance. Any such future activity shall not be permitted except in conformity with these regulations and for uses permitted by this ordinance.

c. This subsection 731-200(a)(9) shall:

1. Have no effect upon the powers of the Consolidated City of Indianapolis, Marion County, or any unit or agency thereof, or the Health and Hospital Corporation of Marion County, Indiana, to enforce other public health and safety laws and ordinances affecting real property, including those contained in IC 34-1-52-1 through 34-1-52-4 (Codification of Common Law Nuisance).
2. Not relieve any property of the legal obligation to comply with conditions or commitments which lawfully apply to the property made in connection with any variance, rezoning, platting, or other zoning decision.
3. Not apply to a property if written records of the:
  - i. Health and Hospital Corporation of Marion County;
  - ii. Fire department having jurisdiction over the property;
  - iii. Local law enforcement agency or agencies having jurisdiction over the property; or
  - iv. Indiana Department of Environmental Management or Department of Natural Resources;

for the twenty-four-month period prior to October 1, 1996, reflect that there has been a significant violation of laws pertaining to public health or safety or ordinances affecting real property, including those contained in IC 34-1-52-1 through 34-1-52-4 (Codification of Common Law Nuisance) for activities occurring on the property or the condition of the property.

d. Definition of significant violation. For purposes of this provision, a violation is defined to be significant as:

1. Any outstanding violation or three (3) or more separate citations from any of the health and safety agencies referred to in subsection 731-200(a)(9)c.3. of this ordinance; or
2. Any citation or violation of Sections 302, 304, 310, 311, 313, and 701, as amended, of Chapter 10 of the Code of the Health and Hospital Corporation of Marion County, Indiana (Housing and Environmental Standards Ordinance); or
3. One (1) or more convictions of a tenant, owner, or lessee for criminal activities occurring on the property.

(b) All uses established or placed into operation after August 2, 1966, shall comply with the following performance standards. No use in existence as of the effective date of this ordinance shall be so altered or modified as to conflict with these standards.

- (1) Vibration. No use shall cause earth vibrations or concussions detectable beyond the lot lines without the aid of instruments.
- (2) Smoke. No use shall emit smoke of a density equal to or greater than No. 2 according to the Ringelmann Scale, as now published and used by the U. S. Bureau of Mines, which scale is on file in the office of the Division of Development Services, and is hereby incorporated by reference and made a part hereof.
- (3) Dust. No use shall cause dust, dirt or fly ash of any kind to escape beyond the lot lines in a manner detrimental to or endangering the public health, safety or welfare or causing injury to property.
- (4) Noxious matter. No use shall discharge across the lot lines noxious, toxic or corrosive matter, fumes or gases in such concentration as to be detrimental to or endanger the public health, safety or welfare or cause injury to property.
- (5) Odor. No use shall emit across the lot lines odor in such quantity as to be readily detectable at any point along the lot lines and as to be detrimental to or endanger the public health, safety or welfare or cause injury to property.
- (6) Sound. No use shall produce sound in such a manner as to endanger the public health, safety or welfare or cause injury to property. Sound shall be muffled so as not to become detrimental due to intermittence, beat, frequency, shrillness or vibration.
- (7) Heat and glare. No use shall produce heat or glare creating a hazard perceptible from any point beyond the lot lines.
- (8) Waste. No use shall accumulate within the lot or discharge beyond the lot lines any waste matter, whether liquid or solid, in violation of the applicable standards and regulations of the Division of Public Health of the Health and Hospital Corporation of Marion County, Indiana; the Indiana State Board of Health; and the Stream Pollution Control Board of the State of Indiana, or in such a manner as to endanger the public health, safety or welfare; or cause injury to property.

SECTION 4. Chapter 731, Article II, Section 219 (a)(10) of the "Revised Code of the Consolidated City and County," regarding the citations of the State of Indiana in the dwelling districts zoning ordinance, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 731-219. Accessory uses.**

(a) Permitted accessory uses. The following accessory uses shall be permitted in all dwelling districts, except the D-11 dwelling district (see section 731-215(a)(5) for permitted accessory uses in this district), subject to the accessory use requirements of section 731-219(b) and the dwelling district regulations of section 731-200:

- (1) Garages; carports; porches; decks; awnings; canopies; mini-barns; storage sheds; patios; outdoor fireplaces; porte-cocheres; bathhouses; cabanas; children's playhouses; swings and other play structures or equipment; greenhouses and other accessory buildings or structures similar and comparable in character to these permitted uses. (See additional requirements of this section.)
- (2) Off-street parking areas, as regulated in section 731-221(e).
- (3) Signs, as regulated by The Sign Regulations of Marion County, Indiana, 71-AO-4, as amended.
- (4) Private swimming pools, hot tubs and similar structures (see additional requirements of this section).
- (5) Amateur radio sending and receiving antennas, provided the height thereof (including masts) shall not exceed seventy-five (75) feet measured from finished lot grade at the base of the antennas and further provided that such antennas shall not be located in the front yard as established by the building line of the existing primary building.

- (6) Management office in multifamily districts and other facilities normally associated with tenants' convenience, such as clubhouses, recreational facilities, laundry facilities, maintenance facilities, provided, however, there is no exterior storage or display.
- (7) Underground storerooms either attached to other permitted structures or constructed separately. (See additional requirements of this section.)
- (8) Residential occupancy by domestic employees employed on the premises, provided that the occupancy occurs within the primary building and that no alteration is made to the unit to create a room or rooms not accessible from the interior.
- (9) Foster family care where care is provided for children unrelated to the residents by blood or adoption; provided that no sign shall be displayed, and that care is provided for no more than five (5) such children.
- (10) Child care home, as defined in section 731-102 and as regulated by IC ~~42-17-2~~ 12-7-2 and rules adopted by the Division of Family ~~and Children Resources~~ or the Division of Fire Prevention and Building Safety ~~Commission~~ of the State of Indiana. For purposes of this chapter, a child care home shall not be considered a home occupation.
- (11) Storage or parking of recreational vehicles. (See additional requirements of this section.)
- (12) Game courts, including tennis courts and basketball courts. (See additional requirements of this section.)
- (13) Common recreation facilities, provided such facilities are dedicated to the public and accepted, owned by a homeowners' association, owned by the project owners, or are in similar type of control; and, provided that the facilities are either open to the public (if dedicated to the public and accepted) or to all the residents in the association or the project.
- (14) Satellite dish antennas. (See additional requirements of this section.)

SECTION 5. Chapter 731, Article II, Section 219 (b) of the "Revised Code of the Consolidated City and County," regarding the location of accessory uses in the dwelling districts, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

(b) *Accessory use development standards.* Accessory uses in all dwelling districts shall comply with the following requirements:

- (1) General accessory use requirements. Accessory uses:
  - a. Shall be customarily incidental, accessory and subordinate to, and commonly associated with, the operation of the primary use of the lot.
  - b. Shall be operated and maintained under the same ownership and on the same building lot as the primary use.
  - c. Shall be subordinate in area, bulk, extent, and purpose to the primary use of the building served.
  - d. The height of an accessory building or structure shall be less than or equal to that of the primary structure.
  - e. The total square footage of all accessory buildings on a building lot shall not exceed seventy-five (75) percent of the main floor area of the primary building, except that a detached garage, which is the only accessory building on the lot, may equal the maximum dimensions of twenty- four (24) by thirty (30) feet provided that the total square footage of the garage is less than or equal to the main floor area of the primary building.
  - ~~d.~~ Unless otherwise specified in this ordinance, detached accessory:
    - 1. Shall not be located closer to any front or side lot line than the required minimum front and side yard setbacks of the dwelling district, or, in the case of a front yard, the established front yard setback on the lot, whichever is greater;

2. In D-A, D-S, D-1, D-2, D-3, D-4, D-5, D-5II and D-8 dwelling districts, shall not be located closer to any rear lot line than five (5) feet;
3. Shall comply with the minimum side yard requirements of the district independently of the side yards established by the primary building;
4. Shall not be permitted on a lot prior to the erection of the primary building.
- 5e. Shall not encroach upon, as the primary building shall not encroach upon, any platted easement.

g. Patios, decks, terraces having a horizontal area within eighteen (18) inches of grade level, shall not require an Improvement Location Permit.

(2) Appurtenances.

- a. Such appurtenant features as walks, drainage installations, mailboxes, lamp posts, bird baths, air conditioning units and structures of similar and comparable nature, shall be permitted on any lot.

Provided, however, the front yard of any lot may contain only enough paving, gravel or similar material sufficient for reasonable access to and from the off-street parking area. The remaining front yard shall be landscaped in grass, shrubbery, trees or hedge, or in combination with other similar and suitable vegetative ground cover materials.

- b. The growing of vegetables, grasses, fruits, flowers, shrubs, vines, and trees shall be permitted on any lot, provided such operations are not for profit. In the D-A dwelling district, the growing of such items may be for profit.
- c. Structural barriers (including, by way of example, a chain link or solid fence, architectural screen, lattice-work or masonry wall), dense landscape plantings (including, by way of example, a continuous hedge of deciduous or evergreen shrubs), shrubs and trees shall be permitted in front, side and rear yards provided that:

1. The height of any structural barrier shall not exceed six (6) feet.

Provided, however:

- i. Any structural barrier in the required front yard shall not exceed forty-two (42) inches in height. This provision (i), shall not apply:
  - (a) To corner lots in Development Area One, as noted in the Thoroughfare Plan for Marion County, Indiana and reproduced in section 731-102 as Diagram J.

For corner lots in Development Area One:

1. Fences up to six (6) feet in height may be permitted in any front yard which:

- aa. does not serve as the primary entrance (that which architecturally is designed as the main or "front door") for the dwelling; and,
- bb. does not face the primary entrance of a dwelling unit across the street.

2. Fences exceeding forty-two (42) inches in height shall not encroach beyond the building line established on the other street frontage.

- (b) To any D-6, D-6II, D-7, D-8 (multifamily only), D-9, and D-10 Districts where the linear street frontage of the project exceeds five hundred (500) feet.

For multifamily projects in the above Districts:

- [illegible]



- (4) Additional requirements for underground storerooms. The following additional requirements shall apply to all underground storerooms:
  - a. An underground storeroom shall not be located in or on any front yard or closer to any side or rear lot line than the required minimum side and rear yard setbacks of the dwelling district.
  - b. No underground storeroom shall be erected or constructed until an Improvement Location Permit has been obtained.
- (5) Additional requirements for recreational vehicles. The following additional requirements shall apply to the parking or storage of recreational vehicles:
  - a. Recreational vehicles may be parked or stored inside permitted buildings or outside in such a manner that no part of any such vehicle shall project into any required side or rear yard as established by the ordinance. Provided further, no part of any such vehicle shall be parked or stored outside in the front yard of the lot other than on the hard-surfaced area of the driveway or interior access drive.
  - b. Not more than two (2) recreational vehicles shall be permitted to be parked or stored in the open on the same building lot at any one time.
  - c. Parked or stored recreational vehicles shall not be occupied or used for living, sleeping or housekeeping purposes in any dwelling district.

SECTION 6. Chapter 731, Article II, Section 219 (c) of the "Revised Code of the Consolidated City and County," regarding the nonpermitted accessory uses in the dwelling districts, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

(c) *Nonpermitted accessory use activities.* No accessory use which is not specifically permitted under section 731-219(a) shall be permitted as an accessory use in any dwelling district. In addition, the following activities are strictly prohibited in all dwelling districts:

- (1) Dismantling, repairing or restoring of motor vehicles in dwelling districts: No person shall dismantle, repair, restore or otherwise perform any work on any motor vehicle, machine, motor, or similar device not owned or leased by that person or a member of that person's family, on any property in a dwelling district. In addition, any work performed shall be:
  - a. Incidental to a permitted use; and,
  - b. Completely within a garage or carport; or,
  - c. Completely within an area wholly enclosed from the view of surrounding properties and rights-of-way by a solid structural barrier (either a wall or fence of ornamental block, brick, wood, or combination thereof) of six (6) feet in height.
- (2) Storing of inoperable motor vehicles in dwelling districts: no motor vehicle, machine, motor, or similar device from which any part material to the operation of the vehicle has been removed, or which is inoperable for any reason, shall be stored, maintained or kept on any property in a dwelling district unless such device is:
  - a. Owned or leased by the resident of the property on which it is stored or by a member of that person's family; and further is,
  - b. Completely within an accessory structure.
- (3) Storing of commercial motor vehicles in dwelling districts:

No commercial motor vehicle or trailer shall be parked, stored, maintained or kept on any property in a dwelling district unless:

  - a. The vehicle has a maximum load capacity of three-quarters ( 3/4) of a ton or less; and

1. Serves as the sole vehicular transportation of a resident of the property upon which it is parked, stored, maintained or kept; or
2. Such vehicle is within a garage or carport which complies with all the standards and regulations of this ordinance.
  1. Commercial motor vehicles that are in the course of making normal and reasonable service calls are exempt from this provision.

SECTION 7. Chapter 731, Article II, Section 221 (e) of the "Revised Code of the Consolidated City and County," regarding the off-street parking requirements in the dwelling districts, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 731-221. Special regulations.**

(a) Minimum setback lines and yards. Front yards, having a minimum depth in accordance with the following setback requirements, shall be provided along all public street right-of-way lines, and the minimum required building setback lines shall be as follows:

- (1) Expressway, parkway or primary thoroughfare (as designated on The Official Thoroughfare Plan of Marion County, Indiana). No part of any structure (except an open porch or eave or cornice overhang not exceeding two (2) feet) shall be built closer than forty (40) feet to any proposed right-of-way line of an expressway, parkway or primary thoroughfare. In the case where a proposed right-of-way line does not exist, the existing right-of-way line shall be used for the setback measurement.
- (2) Secondary thoroughfare (as designated on The Official Thoroughfare Plan of Marion County, Indiana). No part of any structure (except an open porch or eave or cornice overhang not exceeding two (2) feet) shall be built closer than thirty (30) feet to any proposed right-of-way line of a secondary thoroughfare. In the case where a proposed right-of-way line does not exist, the existing right-of-way line shall be used for the setback measurement.
- (3) Collector street. No part of any structure (except an open porch or eave or cornice overhang not exceeding two (2) feet) shall be built closer than thirty (30) feet to any existing right-of-way line, or sixty (60) feet from the centerline, of a collector street, whichever is greater.
- (4) Local street, marginal access street or cul-de-sac.
  - a. No part of any structure (except an open porch or eave or cornice overhang not exceeding two (2) feet) shall be built closer than twenty-five (25) feet to any existing right-of-way line of a local street, marginal access street or cul-de-sac, with the exception of the vehicular turnaround thereof.
  - b. No part of any structure (except an open porch or eave or cornice overhang not exceeding two (2) feet) shall be built closer than twenty (20) feet to any existing right-of-way line of the vehicular turnaround of a cul-de-sac.

(b) Attached multifamily dwelling projects, single-family cluster dwelling projects and mobile dwelling projects; site plan requirement to Improvement Location Permit issuance.

Prior to Improvement Location Permit issuance for any building or structure within an attached multifamily dwelling project, single-family cluster dwelling project, or mobile dwelling project, three (3) copies of the site and landscape plans for the entire project shall be filed with the Department of Metropolitan Development. Also, for an attached multifamily dwelling project, the site and landscape plans shall include a delineation of the proposed major livability space.

(c) Street requirements.

- (1) Clear sight triangular area. The following provisions shall apply to all streets, interior access drives or interior access driveways, whether public or private: All landscape plantings, structural barriers, shrubs, trees, structures or other objects, temporary or permanent, shall permit completely unobstructed vision within a clear sight triangular area between the heights of two and one-half (2 1/2) and nine (9) feet above the crown of the streets, drives, or driveways. A clear sight triangular area shall be established as one of the following (See section 731-102, Diagram F):

- a. On a corner lot, the clear sight triangular area is formed by the street right-of-way lines, the pavement edge of the drives or driveways and the line connecting points twenty-five (25) feet from the intersection of such street right-of-way lines and pavement edge lines; or in the case of a round or cut property corner, from the intersection of the street right-of-way lines and pavement edge lines extended; or,
  - b. On a lot adjacent to an at-grade railroad crossing, the clear sight triangular area is formed by the lot line coterminous with the railroad right-of-way, the street right-of-way line or pavement edge line, and the line connecting points twenty-five (25) feet from the intersection of such lines; and,
  - c. On a lot which has a driveway, abuts an alley or which is next to a lot which has a driveway, the two (2) clear sight triangular areas are formed by the street right-of-way line, both sides of either the alley right-of-way or of the surface edge of the driveway, and the line connecting points ten (10) feet from the intersection of the street right-of-way and driveway or alley lines extended.
- (2) Requirements for public streets.
- a. All public streets shall be dedicated to the public and improved and constructed in accordance with the standards set forth in the Subdivision Control Ordinance of Marion County, Indiana, and General Ordinance No. 49, 1972, including the Indianapolis Department of Public Works Standards for Street and Bridge Design and Construction.
  - b. The right-of-way of all streets within the project, which are indicated on The Official Thoroughfare Plan for Marion County, Indiana, or which have been required by zoning, variance, or platting commitment, condition, covenant or parole covenant, to be constructed to specific standards based upon their proposed functional classification shall be dedicated to the public, or the right-of-way thereof shall be reserved for the future.
- (3) Requirements for all private streets, interior access driveways, and interior access drives for attached multifamily dwelling projects, mobile dwelling projects and planned unit residential developments.
- a. All private streets, interior access driveways and interior access drives for attached multifamily projects, mobile dwelling projects and planned unit residential developments shall meet the minimum standards for construction, materials for use in construction, and design as specified by the "Standard Specifications," Indiana Department of Transportation (8-17-1-39), the Indiana Department of Transportation Supplemental Specifications, and the Indianapolis department of public works (DPW) Standards for Street and Bridge Design and Construction. In the event DPW specifications conflict with the Indiana Department of Transportation "Standard Specifications," the most stringent specifications shall govern.

The "Standard Specifications" of the Indiana Department of Transportation is incorporated into this ordinance by reference. Two (2) copies of the "Standard Specifications" are on file and available for public inspection in the office of the Division of Development Services.

Provided, however, that the standard specifications incorporated into this ordinance shall be modified as follows:

- 1. Curbing shall not be required in the development of private streets, private access driveways and private interior access drives for attached multifamily projects.
- 2. Private interior streets, private interior access drives and private interior access driveways for attached multifamily projects, mobile dwelling projects and planned unit residential developments shall have a minimum width, including gutters, and, if required, curbing, of:

- One-way, no parking: Twelve (12) feet.
    - One-way, parking on one (1) side of the street only: Twenty (20) feet.
    - Two-way, no parking: Twenty (20) feet.
    - Two-way, parking on one (1) side only: Twenty-seven (27) feet.
    - Two-way, parking on both sides of the street: Thirty-six (36) feet.
  - b. Private streets, private interior access drives and private interior access driveways shall be privately maintained (not by governmental agencies) in good condition and free of chuckholes, standing water, weeds, dirt, trash and debris.
  - c. The owner or project management, homeowners' association or other similar organization shall maintain all sidewalks, pedestrian ways, private streets, interior access drives, interior access driveways and parking areas in good repair and reasonably free of chuckholes, standing water, mud, ice and snow.
- (d) Reserved.
- (e) Off-street parking requirements. Off-street parking facilities shall be provided and maintained, for all uses permitted in the dwelling districts, in accordance with the following regulations:
- (1) Number of spaces required.
- a. For every single-family dwelling or two-family dwelling in the D-A, D-S, D-1, D-2, D-3, D-4, D-5, D-5II, D-8, and D-12 dwelling districts, there shall be provided at least two (2) off-street parking spaces for each unit, which may include the parking space(s) provided in a garage or carport.
  - b. For every attached multifamily dwelling in the D-6, D-6II, D-7, D-8, D-9 and D-10 dwelling districts, off-street parking spaces shall be provided in accordance with the development amenities of each district.
  - c. For every mobile dwelling in the D-11 dwelling district, a minimum of two (2) paved off-street parking spaces shall be.
- (2) Development requirements.
- a. Parking areas for uses in (1)a. above need not be paved.
  - b. Parking areas for uses in (1)b. above shall be subject to the following requirements:
    - 1. Off-street parking areas (including, but not limited to, entrances, exits, aisles, spaces, traffic circulation and maneuverability) shall be designed and constructed at not less than the recommended specifications contained in "Architectural Graphic Standards," Current Edition, Ramsey and Sleeper, John Wiley and Sons, Inc., New York, New York (a copy of which is on file in the offices of the Division of Planning and is hereby incorporated by reference and made a part hereof); except that each parking space shall have, regardless of angle of parking, a usable parking space measuring not less than eight and one-half (8 1/2) feet in width (measured perpendicularly from the sides of the parking space) and at least one hundred fifty (150) square feet of usable parking area.
    - 2. The parking area shall not be used for storage or the display, advertisement, sale, repair, dismantling or wrecking of any vehicle, equipment or materials.
    - 3. Parking areas shall be paved with bricks, concrete or improved with a compacted aggregate base and surfaced with an asphaltic pavement, to adequately provide a durable and dustfree surface. Parking areas shall be maintained in good condition and free of chuckholes, weeds, dirt, trash and debris.
    - 4. The surface shall be graded and drained in such a manner that there will be no free flow of water onto sidewalks.
    - 5. The parking area shall have each space delineated by painted lines and shall be provided with curbs, bumper guards or wheel stops so located that no part of the parked vehicles ~~will~~ extend beyond the boundary of the established parking area.

(f) Screening, landscaping, lighting and grounds maintenance. Screening, landscaping, lighting and grounds maintenance shall be provided and maintained, for all attached multifamily dwelling projects and all mobile dwelling projects, in accordance with the required landscape plans and with the following regulations:

(1) Screening:

- a. Front yard of the project: An ornamental, decorative fence or masonry wall, not more than forty-two (42) inches in height if solid, or six (6) feet if the sight barrier is less than fifty (50) percent, may be used in conjunction with the required landscaping. Chain link fencing is not permitted. A clear sight triangular area shall also be maintained as regulated in section 731-219(b)(2)c. of this ordinance.
- b. Side and rear yard of the project: An ornamental, decorative fence or masonry wall may be used in conjunction with the required landscaping. Chainlink fencing is permitted provided it is black vinyl covered chainlink and does not include slats. A clear sight triangular area shall also be maintained as regulated in section 731-219(b)(2)c. of this ordinance.

Provided, however, if any portion of a mobile dwelling project or a multifamily project abuts land zoned so as to permit single-family or two-family dwellings, the perimeter yard between the project and the district shall be screened and landscaped for the purpose of buffering. In addition to the landscape requirements of section 731-221(f)(2), screening shall be provided and maintained according to the following minimum requirements:

1. Screening shall include any combination of an earthen mound; a solid hedge; a wall or fence of ornamental block, stone, brick, or solid wood fencing; and,
  2. Effective screening height shall be at least six (6) feet, as measured from the parking area's grade level, and so constructed to prohibit any view therethrough; and,
  3. If fencing is used for screening, such fencing shall be completely opaque when viewed within fifteen (15) degrees of perpendicular to the fence; and,
  4. If an earthen mound is used for screening, such earthen mound shall not exceed a maximum height of four (4) feet above grade and the incline shall not exceed a three (3) to one ratio, with the exception of previously existing natural outcroppings.
- c. Trash containers. All trash containers exceeding six (6) cubic feet shall:
1. Be completely screened within a solid walled or fenced stall equipped with a self-latching solid gate and buffered by landscaping; and,
  2. Be accessible only from an interior access drive of the project; and,
  3. Not be located in any required perimeter yard.

(2) Landscaping:

- a. All required perimeter yards shall be landscaped. The landscaping of these yards shall, at a minimum, consist of a combination of living vegetation, such as trees, shrubs, grasses or ground cover materials, planted or transplanted and maintained, or preserved as existing natural vegetation areas (e.g., woods or thickets). Loose stone, rock or gravel may be used as a landscaping accent, but shall be limited to only twenty (20) percent of the area of the required yard in which it is used.
- b. Within the perimeter yards, there shall be at least one (1) tree planted or maintained for every thirty (30) feet of total linear distance along all perimeter yard property lines. Required trees may be grouped together in the perimeter yard, however, in no case shall spacing between said trees exceed sixty (60) feet on center. (Refer to Diagram E.)
- c. All parking areas adjacent to required perimeter yards shall be screened along the perimeter yard with a solid hedge. Screening may include the combination of said solid hedge and earthen mound, provided the effective screening height shall be at least thirty-six (36) inches above the parking area's grade level at the time of planting and the maximum incline of the earthen mound shall not exceed a three (3) to one (1) ratio with the exception of previously existing, naturally occurring outcroppings.

- d. Within mobile dwelling projects, at a minimum, one (1) tree shall be planted or maintained on every mobile dwelling site. Said required tree shall not be located within any required yard or common recreational area(s).
- e. Required trees shall be deciduous or evergreen with a spreading branch habit. A group of shrubs may be substituted for a required tree, provided however:
  - 1. That the proposed tree to be substituted is not an existing tree, and
  - 2. That no more than twenty (20) percent of the required trees are substituted with shrubs, and
  - 3. That the shrubs are planted or maintained five (5) feet or less on center, and
  - 4. The shrubs substituted are in addition to any underplanting requirements, and
  - 5. That a grouping of five (5) shrubs may be substituted for one (1) tree.
- f. The minimum size of all required landscape plant materials, at the time of planting, including substituting or replacement trees and shrubs, shall be as follows:
  - 1. Deciduous shade (overstory) trees: Two and one-half (2 1/2) inch caliper at six (6) inches above the ground.
  - 2. Deciduous ornamental (understory) trees: One and one-half (1 1/2) inch caliper at six (6) inches above the ground.
  - 3. Multistemmed trees: Eight (8) feet in height.
  - 4. Evergreen trees: Five (5) feet in height.
  - 5. Deciduous shrubs: Twenty-four-inch spread or two (2) feet in height.
  - 6. Evergreen shrubs: Twenty-four-inch spread or two (2) feet in height.
- g. Deciduous and evergreen shrubs when used for required hedges shall be planted an average of thirty-six (36) inches or less on center within the hedge row.
- h. All trees and shrubs shall be planted, maintained or transplanted in accordance with the standards of the American Association of Nurserymen (a copy of which is on file in the Office of the Division of Planning and is hereby incorporated by reference and made a part hereof). All trees and shrubs shall be mulched and maintained to give a clean and weedfree appearance.
- i. Prior to any construction activity, the removal from any minimum, required yard of any existing deciduous tree over three-inch caliper at six (6) inches above ground or of any existing shrub or evergreen tree over six (6) feet in height, must first be approved in writing by the Administrator. Removal of said tree(s) without written approval from the Administrator, shall require the replanting of replacement tree(s) so that the total number of caliper inches replanted equals or exceeds the total number of calipers removed. Replacement trees shall be of the same species as those trees removed unless approved otherwise by the Administrator. Replanting of these replacement trees shall occur within six (6) months of removal or the next planting season, whichever occurs first. Replacement trees shall not be considered a required tree for the figuring of the minimum number of trees required in any perimeter yard but rather as an additional tree.
- j. All existing trees larger than ten-inch caliper at six (6) inches above the ground which are to be preserved shall be maintained without injury and with sufficient area for the root system to sustain the tree. Protective care and physical restraint barriers, such as temporary protective fencing, shall be provided to prevent alteration, compaction or increased depth of the soil in the root system area prior to and during groundwork and construction. Heavy equipment traffic and storage of construction equipment or materials of any kind shall not be any closer to the tree than the drip line of the tree or ten (10) feet whichever is closer.
- k. Prior to the issuance of an Improvement Location Permit, the Administrator may require a tree survey for a specified time to be completed for a site or portion of a site. Such survey shall become a part of the file and requirements for an Improvement Location Permit. In the case of large, dense tree stands (those exceeding six hundred (600) square feet in area with seventy-five (75) percent branch coverage of the ground surface), the outer boundary of the tree stands' drip line and location with a listing of the predominant species and caliper size may be substituted for a detailed inventory.

- I. The Administrator, upon written request by the applicant and upon receiving a suitable alternative landscape plan, shall have the power to modify any landscape requirements deemed by the Administrator to be infeasible or unreasonably burdensome. Such modification shall be written and become a part of the file and requirements for the Improvement Location Permit.

(3) Landscape plan: A landscape plan shall:

- a. Be drawn on a copy of the site plan (or a simplified scale drawing thereof) showing exact location, outlines and dimensions of all structures, buildings, mobile dwelling sites, mobile dwelling paved stands, patios, sidewalks and pedestrian ways, streets, trash enclosures, project access and interior access drives and driveways, individual and project storage, permanent lighting fixtures, signs, benches, screens, walls, fences, natural vegetation areas, open space, recreational areas, perimeter yards, adjacent property uses and physical features, and all underground and overhead lines with depths or heights indicated at intervals where lines change direction or where terminals or connections are provided; and,
- b. Show dimensioned detailed elevation or section drawings of any trash enclosures, walls, fences, and signs (including sign content); and,
- c. Show all existing elevations and proposed land contour lines having at two-foot intervals; and,
- d. Show location and nature of existing and proposed drainage systems and their flow; and,
- e. Include a tree survey indicating the exact location of existing trees of over two and one-half (2 1/2) inch caliper one (1) foot above the ground and all flowering trees, shrubs and evergreens; all being accurately labeled in the drawing as existing (to remain), existing to be removed or to be transplanted with species and caliper size indicated. Exception: those trees and shrubs located in natural vegetation areas (e.g., woods, thickets or meadows) that will not be developed, but will be left and maintained as a natural untouched area may be indicated by the delineation of the area's outer boundary; and,
- f. Show all proposed plantings and transplantings with plants and plant groups labeled in the drawing as to quality, species, shape, size, spacing (on centers), and purpose (visual or noise abatement screen, hedge, specimen or ground cover).

(4) Lighting:

- a. All access drives, interior streets, interior access drives, intersections, dead ends, culs-de-sac, apices of curves, parking areas, open storage areas, walks and passive and active recreation areas shall be provided with lighting devices to adequately illuminate the areas.
- b. Street or pedestrian lighting devices may be mounted at heights beginning at (or slightly below) ground level to forty-two (42) inches above ground or from ten (10) to thirty (30) feet above ground. Spacing of all lighting devices shall be determined by the height above street grade level and maximum footcandles of each device in conjunction with their capacity to provide an adequate lighting level for the required area and use.
- c. Lighting levels for all outdoor areas shall meet the recommended minimum average maintained horizontal footcandle as specified in the "Illuminating Engineering Society Lighting Handbook," Application Volume, current edition (a copy of which is on file in the Office of the Division of Planning and is hereby incorporated by reference and made a part hereof).
- d. All lighting facilities used to illuminate outdoor areas shall be so located, shielded and directed upon the area to be lighted that they do not glare onto, or interfere with, street traffic, adjacent buildings, or adjacent uses.
- e. Lighting devices for active recreational areas and uses shall be equipped with switching devices which allow lighting levels to be changed when the active recreational use ceases and a lower lighting level is sufficient.

- (5) Grounds maintenance. The project owner or management, homeowners' association or other similar organization shall:

- a. Maintain the entire site in a safe, neat and clean condition; free from litter, trash, debris, junk, and reasonably free of weeds; and,
- b. Maintain all sidewalks, pedestrian ways, interior streets, interior access drives, and parking areas in good repair and reasonably free of chuckholes, standing water, mud, ice and snow; and,
- c. Maintain the landscaping by keeping lawns mowed, all plants properly pruned and maintained as disease-free, and planting beds groomed, except in naturally occurring vegetation areas, such as thickets; and,
- d. Replace any required planting(s), which are removed or no longer living, within a year or the first planting season, whichever occurs first, except those in naturally occurring vegetation areas, such as thickets.

(g) Appeal. In all subsections of this section 731-221, Special regulations, where the Administrator is given authority of discretionary approval of plans and specifications, or the method or manner of qualification, or any other similar authority, any party of interest shall have the right to bring such action by the Administrator before the Metropolitan Development Commission for its review and approval or disapproval through the filing of an approval petition for a detailed plan approval. The right to have such action of the Administrator reviewed by the Metropolitan Development Commission shall be in addition to any other right an aggrieved party may have under law to have such action reviewed, including, but not limited to, the right to appeal such action to the Metropolitan Board of Zoning Appeals of Marion County, Indiana.

(h) Application of this section. This section shall be applicable to all dwelling districts except when specified otherwise in the Dwelling District Zoning Ordinance or in the D-P planned unit residential development district where subsections (a) and (e) shall not be applicable.

SECTION 8. Chapter 732, Article II, Section 202 (a) (3) of the "Revised Code of the Consolidated City and County," regarding the permitted uses in the C-2 commercial district, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 732-202. C-2 High-Intensity Office-Apartment Commercial District.**

Statement of purpose: The C-2 District is designed to permit, in certain areas within the inner city along a few suitable arterial streets and in association with regional commercial complexes in the suburbs, the development of high-rise office uses or apartments intermixed, grouped in varying combinations or provided in the same building. The structural similarity and the possible functional interrelationship of living and working space can create an unusual compatibility of land use, especially in locations where access is particularly good. This type of district may represent a subordinate development to and near the Central Business District, the dominant function of an "uptown" location within the inner city or a major feature of a suburban, regional commercial focal point or planned community.

(a) Permitted C-2 uses. Permitted uses in the C-2 District shall conform to the general commercial district regulations and performance of section 732-200, and the C-2 District development standards of section 732-202(b). The following uses shall be permitted in the C-2 District:

- (1) Any use permitted in the C-1 District.
- (2) Assisted-living facility.
- (3) Attached multifamily dwellings, subject to, and conforming to, all standards, requirements, regulations and definitions of section ~~732-211~~ 731-200 (general regulations), section ~~732-217~~ 731-101 (definitions), and section ~~732-213~~ 731-212 (D-8 dwelling district eight regulations) of Chapter 731, except for those pertaining to building height, yards and setbacks, in which case the regulations pertaining to those items found in section 732-202 of this chapter shall apply.
- (4) Accessory uses and structures, subordinate, appropriate and incidental to the above permitted primary uses, including supportive services directly related to and in the same building with the



primary use, and accessory retail and service commercial uses, as permitted below and subject to the requirements of section 732-202(b)(1)g.

- Art gallery (sales/rental of art)
- Bakery
- Barber shop (excluding schools/colleges)
- Beauty shop (excluding schools/colleges)
- Book store (new or used, excluding adult book stores)
- Cafeteria (for office employees or guests only)
- Candle shop
- Candy, nut or confectionery store
- Card shop
- Drug store, pharmacy
- Florist (including florist telegraph service)
- Gift, novelty or souvenir shop
- News dealers and newsstands
- Office supplies
- Optical goods (excluding optometrists)
- Photocopying and duplicating services
- Photographic studio, portrait
- Photographic supplies
- Pressing service, apparel
- Restaurant (for office employees or guests only)
- Shoeshine parlor
- Stationery store
- Tobacco store or stand

- (5) Temporary structures, including fences, walls, buildings, barricades and similar temporary structures incidental and necessary to the development of land during construction shall be subject to the requirements of section 732-214(e).

SECTION 9. Chapter 732, Article II, Section 203 (a) of the "Revised Code of the Consolidated City and County," regarding the permitted uses in the C-3 commercial district, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 732-203. C-3 Neighborhood Commercial District.**

*Statement of purpose:* The C-3 District is designed to permit the development of a complete range of retail sales and personal, professional and business services required to meet the maximum demand of a fully developed residential neighborhood, regardless of its size. Examples of such types of uses include neighborhood shopping centers, sales of retail convenience or durable goods, shopping establishments, retail and personal and professional service establishments. It does not make provision, however, for those businesses that draw customers in significant numbers from well beyond a neighborhood boundary and are, therefore, unusually heavy traffic generators, such as theaters. It does not allow those businesses that require the outdoor display, sale or storage of merchandise; require outdoor operations; or permit outdoor service and consumption of food and beverages. In general, to achieve maximum flexibility of permitted land use, the C-3 District makes possible a highly varied grouping of indoor retail and business functions.

(a) Permitted C-3 uses. Permitted uses in the C-3 District shall conform to the general commercial district regulations and performance of section 732-200, and the C-3 District development standards of section 732-203(b). The following uses shall be permitted in the C-3 District:

- (1) Any use permitted in the C-1 District (except convalescent or nursing home, assisted-living facility, day care center).
- (2) Automobile oil change or lubrication shops, subject to the provisions of section 732-203(b)(1)f.
- (3) Check cashing or validation service.
- (4) Coupon or trading stamp redemption service.

- (5) Drinking place (no dancing or entertainment), subject to the provisions of section 732-203(b)(1)e., including:
  - a. Bar
  - b. Tavern
- (6) Eating place, any type of restaurant, subject to the provisions of section 732-203(b)(1)e.
- (7) Emergency shelter.
- (8) Gasoline service station (except truck stop), subject to the provisions of section 732-203(b)(1)f.
- (9) Outdoor advertising signs, subject to the sign regulations of Chapter 734 of this Code.
- (10) Parcel packing/mailing service (excluding industrial).
- (11) Personal service establishment, including the following:
  - a. Barber shop
  - b. Beauty shop
  - c. Dry cleaning or laundry pickup stations
  - d. Garment pressing laundromats
  - e. Interior decorator
  - f. Key duplicating shop
  - g. Locksmith
  - h. Mail order store
  - i. Photofinishing ("one-hour" photo service)
  - j. Photography studio
  - k. Power laundry
  - l. Radio or television service
  - m. Tailor, seamstress or dressmaker
  - n. Tanning salon
  - o. Tattoo parlor, subject to the grant of a Special Exception and the provisions of section 732-215
- (12) Post office.
- (13) Rental or leasing of:
  - a. Clothing
  - b. Computers
  - c. Costumes
  - d. Furniture
  - e. Office machines.
- (14) Repair of:
  - a. Bicycles
  - b. Cameras
  - c. Clocks, watches or jewelry
  - d. Computers
  - e. Dental instruments
  - f. Drafting instruments
  - g. Musical instruments
  - h. Optical goods
  - i. Radios or televisions
  - j. Shoes
  - k. Typewriters
- (15) Retail-type use, including the following:
  - a. Antique store
  - b. Appliance store (household or minor)
  - c. Clothing, apparel or accessory store, any type, including uniforms
  - d. Bait and tackle shop

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- e. Bicycle store
- f. Book store (new or used, excluding adult book stores)
- g. Camera and photographic supply store
- h. Card store
- i. Computer or computer software store
- j. Department store, any type
- k. Drapery/curtain store
- l. Drug store
- m. Fabric store
- n. Food store, any type, including: Bakery; Candy, nut or confectionery stores; Convenience market\*; subject to the provisions of section 732-203(b)(1)f. Deli; Grocery store; Produce, fruit, fish or meat markets
- o. Floor covering store, including: carpet, linoleum, tile
- p. Florist (including telegraph service)
- q. Frame shop
- r. Furniture store, any type
- s. Gift shop
- t. Hardware store
- u. Hobby, toy or game shop, including: Arts and crafts shop
- v. Hospital and sick room sales/rental and equipment
- w. Jewelry store
- x. Liquor store (package) \*\*; subject to the provisions of section 732-203(b)(1)e.
- y. Luggage and leather goods
- z. Music store, new or used, including: Musical instrument store; Record, tape or compact disc store; Sheet music store
- aa. Office supply store
- bb. Optical goods store
- cc. Paint or wallpaper store
- dd. Pawn shop
- ee. Pet grooming
- ff. Pet obedience school
- gg. Pet shop
- hh. Pool and billiard table store
- ii. Radio, television or consumer electronics store
- jj. Religious goods store
- kk. Second hand store (excluding automotive or building materials)
- ll. Stationer
- mm. Telephone store
- nn. Tobacco store
- oo. Trading stamp center
- pp. Trophy shop
- qq. Typewriter shop
- rr. Variety store
- ~~\* Subject to the provisions of section 732-203(b)(1)f.~~
- ~~\*\* Subject to the provisions of section 732-203(b)(1)e.~~

(16) Schools, including:

- a. Art
- b. Barber college/school
- c. Beauty or cosmetology college/school
- d. Dance
- e. Karate or martial arts
- f. Photography

(17) Singing society.

(18) Social club, membership.

(19) Temporary seasonal retail sales use, subject to the provisions of section 732-214(f).

(20) Other uses similar and comparable in character to the above permitted uses.

(21) Accessory uses and structures, subordinate, appropriate and incidental to the above permitted primary uses, including supportive services directly related to and located in the same building with the primary use, shall be subject to the requirements of section 732-203(b)(1)g.

- (22) Temporary structures, including fences, walls, buildings, barricades and similar temporary structures incidental and necessary to the development of land during construction shall be subject to the requirements of section 732-214(e).

SECTION 10. Chapter 732, Article II, Section 205 (a) of the "Revised Code of the Consolidated City and County," regarding the permitted uses in the C-4 commercial district, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 732-205. C-4 Community-Regional Commercial District.**

Statement of purpose: The C-4 District is designed to provide for the development of major business groupings and regional-size shopping centers to serve a population ranging from a community or neighborhoods to a major segment of the total metropolitan area. These centers may feature a number of large traffic generators such as department stores, bowling alleys and theatres. Even the smallest of such freestanding uses in this district, as well as commercial centers, require excellent access from major thoroughfares. While these centers are usually characterized by indoor operations, certain permitted uses may have limited outdoor activities, as specified.

(a) Permitted C-4 uses. Permitted uses in the C-4 District shall conform to the general commercial district regulations and performance of section 732-200, and the C-4 District development standards of section 732-205(b). The following uses shall be permitted in the C-4 District:

- (1) Any use permitted in the C-1, or C-3 districts (except convalescent or nursing home, day care center).
- (2) Adult entertainment business (as defined in section 732-217 and subject to the Special Regulations and the provisions of section 732-216) and when applicable, subject to the grant of a Special Exception and the provisions of section 732-215.
- (3) Auction rooms.
- (4) Automobile (car) wash, subject to the provisions of section 732-205(b)(1)h.
- (5) Automotive-related uses, including:
  - a. Air conditioning equipment (sale or installation)
  - b. Brake system repair or service
  - c. Detailing/trim shop
  - d. Supply store (tire, battery, parts or accessories, new or used)
  - e. Exhaust system (muffler) repair shop
  - f. Repair shop (except truck or bus)
  - g. Rust proofing (except truck or bus)
  - h. Speed shop
  - i. Tire: Alignment, Dealers, Retreading or repair shop
  - j. Temporary Sales Event for dealers of motor vehicles licensed under IC 9-23-2-1, subject to the provisions of section 732-205(b)(1)l.
- (6) Bed and breakfast inn.
- (7) Blueprinting.
- (8) Business and personal services, including:
  - a. Medical equipment rental or leasing
  - b. Music distribution system (except coin operated)
  - c. Recording studio
  - d. Security system services
  - e. Typesetting
  - f. Upholsterers
  - g. Animal: boarding, daycare, kennel, vVeterinarian
- (9) Commercial parking lot or structure.

- (10) Drinking places (tavern, bar, cabaret, night club), subject to the provisions of section 732-205(b)(1)d.
- (11) Engraving service for identification.
- (12) Fire station.
- (13) Fraternal lodge (nonresidential).
- (14) Hotel, motel or tourist court, including hotels operated by organizations for members only.
- (15) Indoor commercial amusement/recreation establishments, including:
  - a. Amusement arcade\*, subject to the grant of a Special Exception and the provisions of section 732-215
  - b. Ballroom
  - c. Bathhouse
  - d. Bingo establishment
  - e. Bowling alley
  - f. Firing (gun) range
  - g. Gymnasium
  - h. Instruction in: Baseball, Basketball, Gymnastics
  - i. Miniature golf
  - j. Shooting gallery/range
  - k. Skating rink, ice or roller (including instruction)
  - l. Slot car racetracks
  - m. Tennis court/club, membership
  - n. Trampoline center
  - ~~\* Special exception required (see section 732-215, special exception provisions).~~
- (16) Job printing.
- (17) Massage parlor\*, subject to the grant of a Special Exception and the provisions of section 732-215.\* Special exception required (see also section 732-216, adult entertainment business, if applicable).
- (18) Substance abuse treatment facility, subject to the provisions of section 732-205(b)(1)f. and i. and the provisions of section 732-215
- (19) Parking lot (as primary use).
- (20) Plasma (blood) center.
- (21) Post office.
- (22) Repair services, including:
  - a. Air conditioning service or repair, window units only
  - b. Antique repair or restoration
  - c. Furniture reupholstery or refinishing
  - d. Laboratory instrument repair
  - e. Lawn mower repair shop
  - f. Leather goods repair shop
  - g. Luggage repair shop
  - h. Sewing machine repair shop
  - i. Surgical instrument repair
- (23) Retail-type uses, including:
  - a. Air conditioner sales (window type only)
  - b. Appliance store (major household)
  - c. Firearms/gun sales
  - d. Fireworks sales, subject to the provisions of section 732-205(b)(1)k.
  - e. Flea market (indoor)
  - f. Garden shop/nursery, retail

- g. Gymnasium equipment sales
- h. Hot tub sales
- i. Lawn and garden supply store
- j. Lumber and other building materials (including home improvement center)
- k. Orthopedic and artificial limb store
- l. Playground equipment
- m. Plumbing sales and service (excluding contractor)
- n. Swimming pool sales

(24) Rooming and boarding houses.

(25) Temporary seasonal retail sales uses, subject to the provisions of section 732-214(f).

(26) Theatre, including:

- a. Dinner theatre
- b. Legitimate
- c. Motion picture (except drive-in)

(27) Other uses similar and comparable in character to the above permitted uses.

(28) Accessory uses and structures, subordinate, appropriate and incidental to the above permitted uses, including supportive services directly related to and located in the same building with the primary use, shall be subject to the requirements of section 732-205(b)(1)i.

(29) Temporary structures, including fences, walls, buildings, barricades and similar temporary structures incidental and necessary to the development of land during construction shall be subject to the requirements of section 732-214(e).

SECTION 11. Chapter 732, Article II, Section 205 (b)(1)k. of the "Revised Code of the Consolidated City and County," regarding the location of fireworks sales in the C-4 commercial district, hereby is amended by the addition of the language that is underscored, to read as follows:

(b) C-4 development standards.

(1) Use.

All uses and operations shall be conducted completely within enclosed buildings except:

1. Off-street parking and off-street loading; and
2. Drive-through customer service windows, subject to the requirements of section 732-213, drive-through stacking space regulations; and
3. Outdoor display or sale of merchandise is permitted, provided such display shall:
  - i. Be accessory to the primary use; and
  - ii. Have a total square footage not exceeding one (1) percent of the total gross square footage of the establishment. However, each establishment, regardless of size, shall be permitted a minimum of two hundred (200) square feet for outdoor display; and
  - iii. Be located immediately adjacent to the primary structure, but not within any required yard or required transitional yard; and
  - iv. Not utilize any required off-street parking space or area; and
  - v. Be screened in accordance with section 732-214(g) (landscaping, screening, and grounds maintenance); and
  - vi. Be maintained in an orderly manner.

No outdoor storage shall be permitted, except:

1. Trash containers. Trash container(s) exceeding six (6) cubic feet shall:
  - i. Be completely screened on at least three (3) sides within a solid-walled or fenced stall not less than six (6) feet in height. The open side of the stall, if applicable, shall not face any protected district, nor shall it be viewed from any street frontage; and
  - ii. Be located behind the established front building line; and

iii Not be located within a required yard or required transitional yard.

2. Recycling containers shall be permitted, subject to the requirements of section 732-214(d) (requirements for recycling containers).

Vending machines shall be permitted, provided the machine(s) shall:

1. Be located within a building; or
2. Be located on the exterior of a building abutting its exterior wall; and
3. Not be located within a required yard or required transitional yard; and
4. Not be used in the calculation of the square footage of minor displays of merchandise placed outdoors as noted in section 732-205(b)(1)a.3.

Taverns, package liquor stores, night club establishments, and such establishments where alcoholic beverages may be carried out (except drug stores or grocery stores) shall:

1. Provide adequate outdoor convenience trash containers; and
2. Erect and maintain a decorative fence or wall along the perimeter of any outdoor seating area; and
3. Not be located within one hundred (100) feet, measured in any direction, of a protected district. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district except when such establishment is separated from such protected district by an intervening street (see section 732-217, Diagram J); and
4. Not be located within five hundred (500) feet, measured in any direction, of any commercial amusement/recreation establishment which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the property line of the subject commercial amusement/recreation establishment.

Fast food or drive-through restaurants, and such establishments where food may be carried out shall:

1. Provide adequate outdoor convenience trash containers; and
2. Erect and maintain a decorative fence or wall along the perimeter of any outdoor seating area; and
3. Not be located within one hundred (100) feet, measured in any direction, of a protected district. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district except when such establishment is separated from such protected district by an intervening street (see section 732-217, Diagram J).

Any indoor commercial amusement/recreation establishment which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age shall not be located within five hundred (500) feet, measured in any direction, of any:

1. Substance abuse treatment facility;
2. Tavern, package liquor store, night club establishment, or such establishment where alcoholic beverages may be carried out (except drug stores or grocery stores).

The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the property line of the

subject substance abuse treatment facility, tavern, package liquor store, night club, or establishment where alcoholic beverages may be carried out.

Gasoline service stations, convenience markets, service centers or functions, services, operation and sales shall not include the following:

1. Any outdoor operations (other than the dispensing or installation of gasoline, oil, antifreeze and other similar products and the performance of minor services for customers as related to such dispensing or installation);
2. The sale, rental, display or storage of vehicles, trailers, tractors, machinery or other similar equipment;
3. Commercial parking of motor vehicles;
4. Major servicing or motor or body repair such as, but not limited to, body or fender work, motor overhaul, major transmission repair, auto glass work, tire recapping; or
5. Dismantling or wrecking of any motor or other vehicles, or the storage of inoperable, damaged or wrecked vehicles, other than those awaiting immediate repair.

The exterior display, sale or storage of antifreeze, batteries, tires, oil, and other merchandise or products is permitted, provided, however, that the provisions of section 732-205(b)(1)a.3. are maintained.

Car wash establishments shall:

1. Be subject to the drive-through off-street stacking space regulations of section 732-213; and
2. Not conduct any drying, cleaning, polishing, dispensing of gasoline, or other comparable operation within any required yard or required transitional yard; and
3. Not be located within one hundred (100) feet, measured in any direction, of a protected district. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district except when such establishment is separated from such protected district by an intervening street (see section 732-217, Diagram J); and
4. Have exit drives that are a minimum of one hundred (100) feet in length, measured from the vehicle exit of the car wash establishment to the pavement edge of the street.
5. The surface and drainage treatment at the exit drive shall be designed so that no water accumulates on the surface or onto the public right-of-way as a result of the car wash operations.

Substance abuse treatment facility shall:

1. Not be located within five hundred (500) feet, measured in any direction, of a protected district. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the zoning boundary of the protected district (see section 732-217, Diagram J); and
2. Not be located within five hundred (500) feet, measured in any direction, of any commercial amusement/recreation establishment which caters to, or markets itself predominantly to, persons under twenty-one (21) years of age. The measurement shall be taken from the exterior of the building (or the tenant bay of the establishment if the use is in an integrated center), to the property line of the subject commercial amusement/recreation establishment.



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Accessory uses or structures shall have a total gross floor area which does not exceed twenty-five (25) percent of the total gross floor area of the primary structures or uses.

SECTION 12. Chapter 732, Article II, Section 205 (b)(1)l. of the "Revised Code of the Consolidated City and County," regarding temporary sales event for motor vehicle dealers in the C-4 commercial district, hereby is amended by the addition of the language that is underscored, to read as follows:

Temporary Sales Event for dealers of motor vehicles shall:

1. meet the requirements of IC 9-23-2-6 and IC 9-23-2-7;
2. be limited in duration to a total of ten (10) calendar days per event, and no more than two (2) events per calendar year per site (or integrated center);
3. be limited to vehicles with a maximum one-ton load capacity;
4. not be located within five hundred (500) feet, measured in any direction, of any protected district. The measurement shall be taken from the perimeter of the display or operations area of the Temporary Sales Event, to the zoning boundary of the protected district;
5. comply with all setback requirements for a parking area on the site;
6. not encroach upon any access drive or parking maneuvering area or otherwise inhibit the internal circulation of the remaining vehicle areas.

SECTION 13. Chapter 732, Article II, Section 207 (a) of the "Revised Code of the Consolidated City and County," regarding the permitted uses in the C-6 commercial district, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 732-207. C-6 Thoroughfare Service Commercial District.**

*Statement of purpose:* The C-6 District is designed to permit development of limited service uses related to freeway, expressway or other thoroughfare interchanges and other controlled access locations along major arterial thoroughfares. This district is appropriate for locations where more concentrated types of commercial uses would be incompatible with the other uses in the vicinity. In this district, food, lodging and certain automotive services can be conveniently available to the thoroughfare user without creating the traffic congestion and hazards commonly associated with interchanges or intersections where large commercial districts have developed. The limited availability of locations and limited uses permitted in this district provide for maximum compatibility with adjacent districts.

(a) Permitted C-6 uses. Permitted uses in the C-6 District shall conform to the general commercial district regulations and performance of section 732-200 and the C-6 District development standards of section 732-207(b). The following uses shall be permitted in the C-6 District:

- (1) Adult entertainment business (as defined in section 732-217 and subject to the Special Regulations and the provisions of section 732-216).
- (2) Automobile leasing or renting, passenger.
- (3) Automobile (car) wash, subject to the provisions of section 732-207(b)(1)d.
- (4) Bed and breakfast inn.
- (5) Convenience market, subject to the provisions of section 732-207(b)(1)c.
- (6) Dinner theatre.
- (7) Drinking places (tavern, bar cabaret, night club), subject to the provisions of section 732-207(b)(1)b.
- (8) Eating places (any type of restaurant), subject to the provisions of section 732-207(b)(1)b.
- (9) Gasoline service stations (except truck stops), subject to the provisions of section 732-207(b)(1)c.
- (10) Hotel, motel, tourist court, including such uses operated by organizations for members only.
- (11) Outdoor advertising signs, subject to Chapter 734 of this Code.

- (12) Parking, automobile (as primary use).
- (13) Rooming and boarding house.
- (14) Accessory use structures, subordinate, appropriate and incidental to the above permitted uses, including supportive services directly related to and located in the same building with the primary use, shall be subject to the requirements of section 732-207(b)(1)f.
- (15) Temporary structures, including fences, walls, buildings, barricades and similar temporary structures incidental and necessary to the development of land during construction shall be subject to the requirements of section 732-214(e).

SECTION 14. Chapter 732, Article II, Section 211 (k) of the "Revised Code of the Consolidated City and County," regarding the amount of parking required in the commercial districts, hereby is amended by the deletion of the language that is stricken-through, and by the addition of the language that is underscored, to read as follows:

**Sec. 732-211. Off-street parking regulations.**

All off-street parking areas for motor vehicles accessory to the uses in the commercial districts shall be provided in accordance with the following regulations. However, commercial parking facilities, including attendant parking, shall be subject to the provisions of Chapter 931 of this Code, and shall not be subject to the development standards of this chapter other than the minimum setback requirements of the applicable district.

- (a) Application of regulations.
  - (1) Buildings, structures, uses established hereafter - exception for permits previously issued: For all buildings and structures erected and all uses of land established after the effective date of this chapter, accessory parking facilities shall be provided in accordance with the regulations of this section. However, where improvement location and building permits have been issued prior to the effective date of this chapter, and provided that construction has begun within six (6) months of such effective date and diligently prosecuted to completion (but such time period not to exceed two (2) years after the issuance of such building permit), parking facilities in the amounts required for issuance of such permits may be provided in lieu of any different amount required by the off-street parking regulations of this chapter.
  - (2) Buildings, structures, uses existing or hereafter established - increased intensity of use: When the intensity of use of any legally established building, structure or premises (existing on the effective date this chapter or hereafter established) is increased resulting in a net increase of gross floor area or any other unit of measurement specified herein for determining required parking areas, parking spaces and any other facilities as required herein shall be provided for such increase in intensity of use. However, no building or structure lawfully erected, or use lawfully established, prior to the effective date of this chapter shall be required to provide such additional parking spaces or areas, unless and until the aggregate increase in any unit of measurement specified herein for determining required parking spaces causes an increase in the required number of parking spaces that equals fifteen (15) percent or more of the number of parking spaces existing on the effective date of this chapter, in which event parking spaces and areas as required herein shall be provided for the total increase.
  - (3) Change of use: Whenever the type of use of a building, structure or premises is hereafter changed to a new type of use permitted by this chapter, parking spaces and areas shall be provided as required by the provisions of this chapter for such new type of use, subject to the exception noted in section 732-211(a)(2).
  - (4) Existing parking areas: Required accessory off-street parking areas in existence on the effective date of this chapter shall not hereafter be reduced below, or if already less than, shall not be further reduced below, the requirements for such use as would be required for such use as a new use of a building, structure or premises under the provisions of this chapter.
  - (5) New or expanded parking areas: Nothing in this chapter shall prevent the establishment of, or expansion of the amount of, parking areas to serve any existing use of land or building, provided that all other regulations herein governing the location, design, landscaping, construction and operation of such areas shall be adhered to.

- (b) Location.
  - (1) Accessory off-street parking areas shall be provided on the same lot as the building or use served, or as provided in section 732-211(c) below, and shall not be located within the public right-of-way.
  - (2) Accessory parking areas shall be located in a commercial district which permits the primary use or the I-3, I-4, and I-5 Industrial Suburban and Urban Districts.
  - (3) Any accessory parking area located in a different district than that of the primary use must comply with the development standards for the district in which the parking area is located.
- (c) Common or combined off-street accessory parking areas. Common or combined accessory off-street parking areas may be provided to serve two (2) or more primary buildings or uses, provided such common or combined accessory off-street parking areas shall:
  - (1) Be so planned, designed, constructed and maintained as to create a desirable, efficient and well planned off-street parking area with functional and aesthetic value, attractiveness and compatibility with adjacent land uses, and consistent with the character of the district within which it is located.
  - (2) Be located within five hundred (500) feet of the primary uses served, measured from the nearest point of the parking area boundary to the primary use served.
  - (3) At all times have the minimum total number of spaces that is equal to the sum of the minimum required parking spaces for the use (if freestanding), or integrated center (see Table 2.10-A, No. 28.). No parking space for one (1) use shall be included in the calculation of parking space requirements for any other use.
  - (4) File a site and development plan for any common or combined parking area(s) with the division of planning for approval by the Administrator prior to the issuance of an Improvement Location Permit. Such site and development plan shall indicate:
    - a. Adjacent streets, alleys and lots;
    - b. Uses to be served, including the location, use (e.g., employee, customer, etc.) and number of parking spaces for each such use as required by section 732-211(k) hereof;
    - c. Access drives, driveways, interior access driveways and acceleration/deceleration lanes;
    - d. The parking area layout, including parking areas, parking spaces, total number of parking spaces and dimensions thereof;
    - e. Distances to the primary uses served (see section 732-211(c)(2) for distance measurement);
    - f. All landscaping and screening, walls and fences; proposed lighting, if any; and type of paving proposed;
    - g. Location of signs;
    - h. Location and type of parking space barriers or curbing, if any; and
    - i. All other requirements of Chapter 730, Article III.

Such site and development plan shall demonstrate compliance with all applicable standards of this chapter. Such site and development plan shall be amended and resubmitted for Administrator's approval to indicate any change or other modification of uses served as may be required by section 732-211(a)(2) or (3) or number of parking spaces provided therefor, prior to obtaining a new Improvement Location Permit.

Common or combined off-street accessory parking area shall be developed, maintained and used only in accordance with such approved site and development plan and all other requirements of this chapter.

- (d) Minimum parking lot and parking space dimensions.
  - (1) The interior access drives, interior access driveways, drives, driveways, entrances, exits, aisles, bays and traffic circulation for parking lots and parking garages shall be designed and constructed at not less than the recommended specifications contained in Architectural Graphic Standards, Eighth Edition, Ramsey/Sleeper, John Wiley and Sons, Inc., New York, New York (a copy of which is on file in the office of the division of planning and is hereby incorporated by reference and made a part hereof); except that minimum parking space (or stall) dimensions shall be as set forth below.

- (2) Each off-street parking space shall have, regardless of angle of parking, a usable parking space dimension measuring not less than nine (9) feet in width (measured perpendicularly from the sides of the parking space) and not less than eighteen (18) feet in length; provided, however, that the total usable parking space area shall be, in no instance, less than one hundred eighty (180) square feet in total area.

Exceptions:

- a. All required parking spaces for any use allowing shopping carts to be removed from the interior of the establishment (i.e., grocery store) shall have a usable parking space dimension measuring not less than ten (10) feet in width (measured perpendicularly from the sides of the parking space) and not less than eighteen (18) feet in length; provided, however, that the total usable parking space area shall be at least one hundred eighty (180) square feet. The required parking spaces for such uses shall be located within five hundred (500) feet of the front entrance of the establishment.
  - b. All parking spaces reserved for the use of physically handicapped persons shall have a usable parking space dimension measuring not less than thirteen (13) feet in width (measured perpendicularly from the sides of the parking space) and not less than twenty (20) feet in length (see also section 732-211(l), required parking spaces for the disabled).
- (e) Access to and from parking areas.
- (1) Each off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space.
  - (2) All off-street parking spaces or areas shall be designed with appropriate means of vehicular access to a street or alley in such a manner as to minimize interference with traffic movement and to provide safe and efficient means of vehicular access. Off-street parking spaces and areas shall be designed and located so that vehicles shall not back from or into a public street or adjoining property.
- (f) Use of parking areas.
- (1) The parking area shall not be used for the storage, display, advertisement, sale, repair, dismantling or wrecking of any vehicle, equipment or material. The parking area shall not be used for the storage of any commercial or inoperable vehicles.
  - (2) Buildings or structures for guards, attendants or watchmen shall be permitted; however, any such structure shall not occupy a required off-street parking space(s) and shall comply with all setback requirements.
  - (3) Loading spaces and maneuvering area, as required in section 732-212, shall not constitute a required off-street parking space; nor shall any off-street parking area be used as a loading space or area.
- (g) Surface of parking area.
- (1) Off-street parking spaces may be open to the sky, covered, or enclosed in a building. In any instance where a building is constructed or used for parking, it shall be treated as any other building or structure and subject to all use and development standards requirements of the applicable commercial district in addition to the requirements contained herein.
  - (2) All off-street parking areas, and the access to and from such areas, shall be hardsurfaced to adequately provide a durable and dust-free surface. A gravel surface may be used for a period not exceeding one (1) year after the commencement of the use for which the parking areas is provided, where ground or weather conditions are not immediately suitable for permanent surfacing as specified above.
  - (3) The surface shall be graded, constructed and drained in such a manner that there will be no detrimental flow of water onto sidewalks.
  - (4) The parking area(s), where abutting a required landscaped yard or area, shall be designed and constructed in such a manner that no part of any parked vehicle shall extend beyond the

boundary of the established parking area into any minimum required landscaped yard or area or onto adjoining property.

(h) Marking of parking spaces. All parking spaces shall be marked by durable painted lines at least four-inches wide and extending the length of the space or by curbs or other means to indicate individual spaces. Signs or markers located on the pavement surface within a parking lot may be used as necessary to ensure efficient and safe traffic operation of the lot.

(i) Lighting of parking area.

(1) When parking areas are illuminated, the lighting equipment shall provide good visibility with a minimum of direct glare.

(2) In applying exterior lighting, equipment shall be of an appropriate type and be so located, shielded and directed that the distribution of light is confined to the area to be lighted.

(3) Objectionable light onto adjacent properties and streets shall be avoided to prevent direct glare or disability glare.

(4) Lighting levels for outdoor parking areas shall meet the following minimum average maintained horizontal footcandles (as specified in Architectural Graphic Standards, Eighth Edition, Ramsey/Sleeper, John Wiley and Sons, Inc., New York, New York (a copy of which is on file in the office of the Division of Planning of the Department of Metropolitan Development and is hereby incorporated by reference and made a part hereof).

(j) Landscaping. All parking areas in excess of one hundred (100) spaces shall be landscaped in accordance with section 732-214(g)(3) (additional landscaping requirements - interior of parking lots).

(k) Amount of parking spaces required.

(1) Off-street parking spaces shall be provided and maintained for uses in the commercial district in accordance with the minimum requirement set forth in Table 2.10-A.

(2) When a computation of required parking spaces results in a fraction of one-half (1/2) or greater, the number of required parking spaces shall be rounded up to the next whole number.

<b>TABLE 2.10-A Minimum Number Of Off-Street Parking Spaces Required By Use</b>	
<b>Use</b>	<b>Minimum parking requirement</b>
1. Any amusement establishments (commercial, recreational) involving the assembling of persons (unless otherwise specified in this table):	
a. Indoor	One (1) parking space for each two hundred fifty (250) square feet of gross floor area.
b. Outdoor	One (1) parking space for each two hundred (200) square feet of gross floor area plus one (1) parking space for each four hundred (400) square feet of site area accessible to the public, exclusive of the parking area.
2. Assisted-living facility	Total car ratio (TCR) - assisted-living facilities: 0.500. In addition, one (1) visitor parking space shall be provided per six (6) dwelling units; plus one (1) parking space per employee on duty during the peak work shift.
3. Auto, truck or motorcycle sales or repair:	One (1) parking space for each employee per largest work shift, plus two (2) spaces per service bay (a service bay shall not be considered a parking space), plus one (1) space for each two hundred (200) square feet of interior sales and display area, plus one (1) space for each seven thousand (7,000) square feet of outdoor display area.

4. Banking: bank, savings and loan, credit union	
a. Combined drive-through and walk-in facilities	One (1) parking space for each two hundred fifty (250) square feet of gross floor area. (Also subject to the drive-through requirements of section 732-213).
b. Drive-through facility only	One (1) parking space for each employee per largest work shift, plus a minimum of three (3) additional parking spaces. (Also subject to the drive-through requirements of section 732-213).
c. Walk-in facility only	One (1) parking space for each two hundred (200) square feet of gross floor area.
5. Bowling alleys:	<p>a. Four (4) parking spaces for each alley/lane.</p> <p>b. If, in addition, there are other uses or accessory uses located within or operated in conjunction with the bowling alley, such as restaurants, night clubs, and the like, additional parking spaces, calculated based upon the parking requirements for that specific use, shall be provided (calculation shall be based upon the total square feet of gross leasable floor area for uses located within or operated in conjunction with the bowling alley).</p>
6. Churches/synagogues, auditoriums, assembly halls, recital halls:	One (1) parking space for each four seats at maximum calculated capacity.
7. Community centers, museums, civic clubs, philanthropic and eleemosynary institutions:	One (1) parking space for each four hundred (400) square feet of gross floor area.
8. Convenience market	One (1) parking space for each two hundred eighty-five (285) square feet of gross floor area. Parking spaces at gasoline pumps may be included in the calculation of required parking.
9. Day nurseries, day care centers, kindergartens, nursery schools:	One (1) parking space for each employee per largest work shift, plus one (1) parking space for each five hundred (500) square feet of gross floor area.
<u>10. Dwelling unit</u>	<u>One-and-one-half (1.5) parking spaces for each dwelling unit.</u>
<del>10</del> <u>11.</u> Fire station:	One (1) parking space for each two (2) employees on the premises during the largest work shift, plus a minimum of three (3) additional parking spaces.
<del>11</del> <u>12.</u> Furniture/floor or wall covering store	One (1) parking space for each four hundred (400) square feet of gross floor area.
<del>12</del> <u>13.</u> Gasoline service stations, tire and auto service center, other auto service functions:	One (1) parking space for each employee per largest work shift, plus two (2) spaces per service bay (a service bay shall not be considered a parking space), plus three (3) customer spaces, plus one (1) space for each three hundred (300) square feet of gross floor area devoted to retail sales.
<del>13</del> <u>14</u> Gasoline service station/convenience market	Same as (8) convenience market.
<del>14</del> <u>15.</u> Grocery store/supermarket	One (1) parking space for each one hundred fifty (150) square feet of gross floor area.
<del>15</del> <u>16.</u> Hardware/paint/home improvement store	One (1) parking space for each two hundred (200) square feet of gross floor area plus one (1) parking space for each one thousand (1,000) square feet of the facility devoted to outside operations or storage, exclusive of the parking area.
<del>16</del> <u>17.</u> Health spa/sports club	<p>a. One (1) parking space for each two hundred (200) square feet of gross floor area.</p> <p>b. If, in addition, there are other uses or accessory uses located within or operated in conjunction with the health spa or sports club, such as dining areas, restaurants, night clubs, retail stores and the like, additional parking spaces, calculated based upon the parking requirements for that specific</p>

	use, shall be provided (calculation shall be based upon the total square feet of gross leasable floor area for such uses located within or operated in conjunction with the health spa or sports club).
<del>17</del> <u>18</u> . Hotels, motels:	<p>a. One (1) parking space for each rental sleeping unit.</p> <p>b. If, in addition to sleeping units, there are other uses or accessory uses located within or operated in conjunction with the hotel or motel, such as ballrooms, meeting rooms, dining areas, retail stores, auditoriums, restaurants, night clubs, and the like, additional parking spaces, calculated based upon the parking requirements for that specific use, shall be provided. (Calculation shall be based upon the total square feet of gross leasable floor area for such uses located within or operated in conjunction with the hotel or motel).</p>
<del>18</del> <u>19</u> . Library	One (1) parking space for each four hundred (400) square feet of gross floor area.
<del>19</del> <u>20</u> . Medical, dental, optometrists clinics/offices:	One (1) parking space for each two hundred (200) square feet of gross floor area.
<del>20</del> <u>21</u> . Mini-warehouses	Three (3) parking spaces for each office, plus one (1) parking space per each employee based on the largest work shift, plus one (1) parking space per resident/manager, plus one (1) parking space for each thirty (30) storage units. Required off-street parking spaces shall not be utilized as rental or leased spaces.
<del>21</del> <u>22</u> . Miniature golf	Four (4) parking spaces for each golf hole, plus one (1) parking space per each employee based on the largest work shift, plus one (1) space per each one hundred (100) square feet devoted to accessory retail or amusement establishments.
<del>22</del> <u>23</u> . Mortuary, funeral service, crematories	One (1) parking space for each fifty (50) square feet of floor area in parlors and assembly rooms.
<del>23</del> <u>24</u> . Nursing and convalescent homes, homes for the aged, sanitariums, rehabilitation centers	One (1) parking space for each three (3) patient beds, plus one (1) parking space for each two (2) employees and each two (2) staff doctors on the premises during the largest work shift.
<del>24</del> <u>25</u> . Office commercial use, general: (To include, but not be limited to business, professional office, post office, office park, research center)	Three and one-half (3.5) parking spaces for each one thousand (1,000) square feet of gross floor area.
<del>25</del> . Racquetball/tennis courts/club facilities	One (1) parking space per employee, plus four (4) parking spaces per game court, plus one (1) parking space for each two hundred (200) square feet of the remaining floor area in the building devoted to retail activities.
<del>26</del> <u>27</u> . Restaurant:	
a. Family	One (1) parking space per employee per largest work shift plus one (1) parking space for each four (4) customer seats.
b. Fast food, with or without drive-through	One (1) parking space per employee per largest work shift plus one (1) parking space for each three (3) customer seats. Provided, however, in no case shall any such use provide less than five (5) parking spaces (also subject to the drive-through requirements of section 732-213).
c. Fast food, drive-through only (no seating)	One (1) parking space per employee per largest work shift plus a minimum of three (3) additional parking spaces (also subject to the drive-through requirements of section 732-213).
<del>27</del> <u>28</u> . Taverns and night clubs	One (1) parking space per employee per largest work shift plus one (1) parking space for each seventy-five (75) square feet of gross floor area.

<del>28</del> <u>29</u> . Retail or service commercial uses - individual, freestanding uses: including but not limited to: Bakeries; drugstores; beauty and barber shops; package liquor stores; laundromats, photo studios; jewelry, gift, appliance and similar stores; personal service shops	Three and one-half (3.5) parking spaces for each one thousand (1,000) square feet of gross leasable area shall be required for any individual, freestanding retail or service commercial use unless listed separately in this section, in which case the parking requirement noted for that specific use shall be utilized. Provided, however, that in no case shall any individual use provide less than five (5) parking spaces.
<del>29</del> <u>30</u> . Retail or service commercial uses - integrated centers (as defined in section 732-217)	<p>a. If the total gross leasable area of an integrated center is less than four hundred thousand (400,000) square feet, four (4) parking spaces for each one thousand (1,000) square feet of gross leasable area shall be required;</p> <p>b. If the total gross leasable area of an integrated center is greater than four hundred thousand (400,000) square feet, but less than six hundred thousand (600,000) square feet, four and one-half (4.5) parking spaces for each one thousand (1,000) square feet of gross leasable area shall be required.</p> <p>c. If the total gross leasable area of an integrated center is greater than six hundred thousand (600,000) square feet, five (5) parking spaces for each one thousand (1,000) square feet of gross leasable area shall be required.</p> <p>Provided, however:  (1) In no case shall any individual use provide less than five (5) parking spaces; and  (2) The following individual uses: grocery store/supermarket; theatres - motion picture or legitimate; bowling alley; or night club, shall provide parking spaces as required for the individual use by this section and such calculation shall be separate from the calculation of the gross leasable area calculation of the integrated center.</p>
<del>30</del> <u>31</u> . Roller/ice skating rink	One (1) parking space for each two hundred (200) square feet of gross floor area in the building.
<del>31</del> <u>32</u> . Schools: business, technical, trade, and vocational	One (1) parking space for each one hundred (100) square feet of gross floor area in the building, or one (1) parking space per each twenty-five (25) square feet of classrooms, whichever provides the greatest number of spaces.
<del>32</del> <u>33</u> . Theatres: motion picture or legitimate	One (1) parking space for each three (3) seats.
<del>33</del> <u>34</u> . All uses permitted in the C-ID Commercial-Industrial District:	One (1) parking space for each two (2) employees per largest work shift, plus five (5) customer spaces. Any floor area in the establishment devoted to retail sales shall require additional customer parking spaces in the amount specified elsewhere in this section for the type of retail sales involved.
<del>34</del> <u>35</u> . Uses not specified	For any commercial district use not specified above, specific requirements shall be determined by the Administrator and shall be based upon requirements for similar uses, expected demand and traffic generated by the proposed use, and other information from appropriate traffic engineering and planning criteria.

SECTION 15. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.



*March 5, 2007*

SECTION 16. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end, the provisions of this ordinance are severable.

SECTION 17. This ordinance shall be in effect from and after its passage by the Council and compliance with Ind. Code § 36-3-4-14.

## **NEW BUSINESS**

Councillor Cockrum said that Proposal No. 636, 2006 is still in pending and has not been acted on within 45 days from introduction. He said that even if the Committee chooses to table the proposal, it needs to have an action on it according to Council rules. President Gray stated that there has not been a scheduled meeting of the Law Enforcement Consolidation Committee in order to vote on the proposal. Councillor Cockrum said that a meeting should be scheduled to handle items that are introduced within the 45 days. Councillor Mansfield stated that the sponsor of this proposal is no longer a part of this body. President Gray stated that unless another member comes forward to sponsor, the proposal would not properly be before the body. Councillor Franklin said that she will put her name on the proposal as sponsor. President Gray asked the Clerk to make the change and said that the proposal will be scheduled shortly in Committee.

## **ANNOUNCEMENTS AND ADJOURNMENT**

The President said that the docketed agenda for this meeting of the Council having been completed, the Chair would entertain motions for adjournment.

Councillor Boyd stated that he had been asked to offer the following motion for adjournment by:

- (1) Councillors Pfisterer, Gray, Brown, Langsford and Randolph in memory of Robert Little;
- (2) All Democrat Councillors in memory of Sue Shively; and
- (3) Councillor Cockrum in memory of Lillie E. Condre; and
- (4) Councillors Gray, Conley and Brown in memory of George Hawkins.

Councillor Boyd moved the adjournment of this meeting of the Indianapolis City-County Council in recognition of and respect for the life and contributions of Robert Little, Sue Shively, Lillie E. Condre, and George Hawkins. He respectfully asked the support of fellow Councillors. He further requested that the motion be made a part of the permanent records of this body and that a letter bearing the Council seal and the signature of the President be sent to the families advising of this action.

There being no further business, and upon motion duly made and seconded, the meeting adjourned at 8:08 p.m.

We hereby certify that the above and foregoing is a full, true and complete record of the proceedings of the regular concurrent meetings of the City-Council of Indianapolis-Marion County, Indiana, and Indianapolis Police, Fire and Solid Waste Collection Special Service District Councils on the 5th day of March, 2007.

In Witness Whereof, we have hereunto subscribed our signatures and caused the Seal of the City of Indianapolis to be affixed.

President

ATTEST:

Clerk of the Council

(SEAL)